

REFERENCE TITLE: green technology and manufacturing incentives

State of Arizona
House of Representatives
Forty-ninth Legislature
First Regular Session
2009

HB 2248

Introduced by
Representatives Ableser: Campbell CL

AN ACT

AMENDING TITLE 41, CHAPTER 10, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 41-1514.03 AND 41-1514.04; AMENDING TITLE 41, CHAPTER 10, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-1525.02; AMENDING SECTIONS 42-5061, 42-5063, 42-5071, 42-5075, 42-5159 AND 42-12006, ARIZONA REVISED STATUTES; REPEALING SECTION 43-222, ARIZONA REVISED STATUTES; AMENDING TITLE 43, CHAPTER 2, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 43-222; AMENDING SECTION 43-1074, ARIZONA REVISED STATUTES; AMENDING TITLE 43, CHAPTER 10, ARTICLE 5, ARIZONA REVISED STATUTES, BY ADDING SECTION 43-1074.03; AMENDING SECTIONS 43-1079, 43-1080 AND 43-1161, ARIZONA REVISED STATUTES; AMENDING TITLE 43, CHAPTER 11, ARTICLE 6, ARIZONA REVISED STATUTES, BY ADDING SECTION 43-1161.01; AMENDING SECTIONS 43-1167 AND 43-1169, ARIZONA REVISED STATUTES; RELATING TO ENVIRONMENTALLY FRIENDLY BUSINESS TAX INCENTIVES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 41, chapter 10, article 1, Arizona Revised Statutes,
3 is amended by adding sections 41-1514.03 and 41-1514.04, to read:

4 41-1514.03. Green manufacturing property tax incentives:
5 certification; definitions

6 A. THE DEPARTMENT OF COMMERCE SHALL ANNUALLY CERTIFY GREEN
7 MANUFACTURING BUSINESSES FOR PROPERTY TAX ASSESSMENT AS CLASS SIX PROPERTY AS
8 PROVIDED BY SECTION 42-12006. TO QUALIFY UNDER THIS SECTION:

9 1. A GREEN MANUFACTURING BUSINESS MUST MEET THE MINIMUM INVESTMENT
10 REQUIREMENTS PRESCRIBED BY THIS PARAGRAPH. THE INVESTMENTS MAY BE
11 CUMULATIVE. SUBJECT TO SUBSECTION E OF THIS SECTION, CERTIFICATION IS
12 EFFECTIVE ON JANUARY 1 OF THE VALUATION YEAR, AS DEFINED IN SECTION 42-11001,
13 FOLLOWING COMPLETION OF THE REQUIRED INVESTMENT. TO QUALIFY, THE GREEN
14 MANUFACTURING BUSINESS MUST INVEST AT LEAST THE FOLLOWING AMOUNT, AS
15 APPLICABLE, IN FIXED ASSETS AFTER DECEMBER 31, 2009:

16 (a) IN COUNTIES WITH A POPULATION OF TWO HUNDRED FIFTY THOUSAND
17 PERSONS OR MORE, TWO MILLION DOLLARS, EXCEPT AS PROVIDED IN SUBDIVISION (b)
18 OF THIS PARAGRAPH.

19 (b) IN ALL OTHER COUNTIES, AND IN CITIES AND TOWNS LOCATED IN COUNTIES
20 WITH A POPULATION OF TWO HUNDRED FIFTY THOUSAND PERSONS OR MORE AND THAT HAVE
21 NO PORTION OF THE CORPORATE BOUNDARIES LOCATED WITHIN TWENTY-FIVE AIR MILES
22 FROM THE EXTERIOR CORPORATE BOUNDARY OF THE LARGEST CITY IN THE COUNTY:

23 (i) CITIES WITH A POPULATION OF EIGHTY THOUSAND PERSONS OR MORE, TWO
24 MILLION DOLLARS.

25 (ii) CITIES AND TOWNS WITH A POPULATION OF AT LEAST FIFTEEN THOUSAND
26 BUT LESS THAN EIGHTY THOUSAND PERSONS AND IN UNINCORPORATED AREAS OF THE
27 COUNTY, ONE MILLION DOLLARS.

28 (iii) CITIES AND TOWNS WITH A POPULATION OF LESS THAN FIFTEEN THOUSAND
29 PERSONS, FIVE HUNDRED THOUSAND DOLLARS.

30 2. A BUSINESS INITIALLY APPLYING FOR CERTIFICATION UNDER THIS SECTION
31 MUST REPORT THE FOLLOWING WITH SUPPORTING DOCUMENTATION TO THE DEPARTMENT OF
32 COMMERCE ON A FORM AND IN A MANNER PRESCRIBED BY THE DEPARTMENT:

33 (a) THE BUSINESS NAME AND MAILING ADDRESS AND ANY OTHER CONTACT
34 INFORMATION REQUESTED BY THE DEPARTMENT.

35 (b) THE BUSINESS LOCATION.

36 (c) THE NUMBER OF FULL-TIME EMPLOYEES AT THE TIME OF APPLICATION AND
37 THE BENEFITS PROVIDED TO EMPLOYEES.

38 (d) THE ASSESSOR'S PARCEL NUMBER OF REAL PROPERTY TO WHICH CLASS SIX
39 ASSESSMENT CLASSIFICATION WILL APPLY.

40 (e) IF AVAILABLE, THE ASSESSOR'S ACCOUNT NUMBER FOR PERSONAL PROPERTY
41 TO WHICH CLASS SIX ASSESSMENT CLASSIFICATION WILL APPLY.

42 (f) THE GROSS RECEIPTS, GROSS PAYROLL AND AVERAGE HOURLY WAGE PAID TO
43 EMPLOYEES FOR THE PRECEDING TAXABLE YEAR.

44 (g) A STATEMENT OF THE OWNERSHIP AND DESCRIPTION OF OPERATIONS OF THE
45 BUSINESS.

1 (h) DOCUMENTATION OF THE REQUIRED INVESTMENT IN FIXED ASSETS THAT
2 IDENTIFIES THE FIXED ASSETS AND ESTABLISHES THE COST OF THE FIXED ASSETS AND
3 THE TIME OF INVESTMENT.

4 (i) DOCUMENTATION THAT ESTABLISHES THE TYPE AND AMOUNT OF
5 MANUFACTURING ACTIVITY CONDUCTED AT THE LOCATION.

6 (j) THE OWNERSHIP AND FULL CASH VALUE OF REAL AND PERSONAL PROPERTY TO
7 BE CERTIFIED.

8 (k) OTHER INFORMATION NECESSARY FOR THE MANAGEMENT AND REPORTING OF
9 THIS PROGRAM AS DETERMINED BY THE DEPARTMENT.

10 B. CERTIFICATION UNDER THIS SECTION IS VALID FOR FIVE YEARS SUBJECT TO
11 ANNUAL RECERTIFICATION IF THE BUSINESS CONTINUES TO MEET THE OTHER
12 ELIGIBILITY REQUIREMENTS.

13 C. IN ORDER TO BE ANNUALLY RECERTIFIED PURSUANT TO SUBSECTION B OF
14 THIS SECTION, A GREEN MANUFACTURING BUSINESS MUST CONTINUE TO MEET ALL THE
15 ELIGIBILITY REQUIREMENTS OF THIS SECTION AND MUST ANNUALLY REPORT THE
16 FOLLOWING AND PROVIDE SUPPORTING DOCUMENTATION TO THE DEPARTMENT OF COMMERCE
17 ON A FORM AND IN A MANNER APPROVED BY THE DEPARTMENT:

18 1. INFORMATION REQUIRED BY SUBSECTION A, PARAGRAPH 2, SUBDIVISIONS
19 (a), (b), (d), (e), (f), (i), (j) AND (k) OF THIS SECTION.

20 2. CHANGES IN LOCATION, OWNERSHIP AND OPERATIONS OF THE BUSINESS IN
21 THE IMMEDIATELY PRECEDING YEAR.

22 3. THE AVERAGE NUMBER OF FULL-TIME EMPLOYEES AT THE LOCATION FOR THE
23 IMMEDIATELY PRECEDING YEAR.

24 D. TO QUALIFY FOR CLASSIFICATION AS CLASS SIX PROPERTY FOR TAX
25 PURPOSES, THE CERTIFIED BUSINESS MUST SUBMIT A COPY OF THE DEPARTMENT'S
26 INITIAL CERTIFICATION, AND EACH ANNUAL RECERTIFICATION, WITH A WRITTEN
27 REQUEST TO RECLASSIFY THE PROPERTY TO THE COUNTY ASSESSOR OF THE COUNTY IN
28 WHICH THE PROPERTY IS LOCATED BY DECEMBER 10 OF EACH YEAR.

29 E. A GREEN MANUFACTURER SHALL SUBMIT ITS APPLICATION FOR INITIAL
30 CERTIFICATION OR ANNUAL RECERTIFICATION TO THE DEPARTMENT NOT LATER THAN
31 OCTOBER 1 OF EACH YEAR. THE DEPARTMENT SHALL NOTIFY THE APPROPRIATE COUNTY
32 ASSESSORS OF ALL QUALIFIED PROPERTIES LOCATED WITHIN THEIR COUNTY NOT LATER
33 THAN DECEMBER 1 OF EACH YEAR.

34 F. IF A GREEN MANUFACTURER MOVES FROM THE ORIGINALLY CERTIFIED
35 LOCATION, IT LOSES ITS ELIGIBILITY. THE MANUFACTURER MAY APPLY FOR
36 CERTIFICATION AT A NEW LOCATION FOR THE REMAINDER OF ITS FIVE YEARS IF IT
37 MEETS THE MINIMUM INVESTMENT REQUIREMENTS IN FIXED ASSETS THAT WERE NOT MOVED
38 FROM THE PRIOR LOCATION, MEETS ALL OTHER ELIGIBILITY REQUIREMENTS OF THIS
39 SECTION AND HAS NOT REACHED THE FIVE YEAR ELIGIBILITY LIMIT.

40 G. ONCE A GREEN MANUFACTURER ESTABLISHES THE BASIS FOR ELIGIBILITY AND
41 THE DEPARTMENT CERTIFIES THE MANUFACTURER, THE BUSINESS MAY CHANGE ITS BASIS
42 OF ELIGIBILITY DURING THE FOUR REMAINING YEARS OF POTENTIAL ELIGIBILITY AS
43 LONG AS THE MANUFACTURER MEETS THE REQUIREMENTS FOR THE NEW BASIS OF
44 ELIGIBILITY.

1 H. IF A CERTIFIED GREEN MANUFACTURING BUSINESS IS PURCHASED BY ANOTHER
2 ENTITY OR CHANGES BY MORE THAN TWENTY PER CENT OF THE OWNERSHIP INTEREST
3 THROUGH REORGANIZATION, STOCK PURCHASE OR MERGER, THE CERTIFICATION IS
4 TERMINATED. THE NEW GREEN MANUFACTURER MAY APPLY FOR CERTIFICATION ACCORDING
5 TO ELIGIBILITY REQUIREMENTS OF THIS SECTION.

6 I. A BUSINESS THAT WAS ORIGINALLY CERTIFIED FOR A TEN-YEAR PERIOD OF
7 PROPERTY RECLASSIFICATION LOSES ELIGIBILITY FOR ANY YEAR IN WHICH THE
8 BUSINESS IS NO LONGER INDEPENDENTLY OWNED AND OPERATED.

9 J. THE DEPARTMENT OF COMMERCE SHALL NOTIFY THE DEPARTMENT OF REVENUE
10 AND THE COUNTY ASSESSOR IF A CERTIFIED GREEN MANUFACTURING BUSINESS CLOSSES,
11 MOVES OR FAILS TO MAINTAIN ITS ELIGIBILITY, AND THE ASSESSOR SHALL MAKE THE
12 APPROPRIATE CHANGES TO THE TAX ROLL.

13 K. THE DEPARTMENT OF COMMERCE MAY MAKE SITE VISITS TO A TAXPAYER'S
14 FACILITIES IF IT IS NECESSARY TO FURTHER DOCUMENT OR CLARIFY REPORTED
15 INFORMATION. THE TAXPAYER MUST FREELY PROVIDE THE ACCESS.

16 L. DOCUMENTS FILED WITH THE DEPARTMENT OF COMMERCE PURSUANT TO THIS
17 SECTION SHALL CONTAIN EITHER A SWORN STATEMENT OR CERTIFICATION, SIGNED BY AN
18 OFFICER OF THE COMPANY UNDER PENALTY OF PERJURY, THAT THE INFORMATION
19 CONTAINED IS TRUE AND CORRECT ACCORDING TO THE BEST BELIEF AND KNOWLEDGE OF
20 THE PERSON SUBMITTING THE INFORMATION AFTER A REASONABLE INVESTIGATION OF THE
21 FACTS. IF THE DOCUMENT CONTAINS INFORMATION THAT IS MATERIALLY FALSE, THE
22 TAXPAYER IS INELIGIBLE FOR THE TAX BENEFITS UNDER THIS SECTION AND IS SUBJECT
23 TO RECOVERY OF THE AMOUNT OF TAX BENEFITS ALLOWED IN PRECEDING YEARS BASED ON
24 THE FALSE INFORMATION, INCLUDING PENALTIES AND INTEREST.

25 M. THE DEPARTMENT BY RULE MAY PRESCRIBE ADDITIONAL REPORTING
26 REQUIREMENTS FOR PERSONS WHO CLAIM A TAX BENEFIT PURSUANT TO THIS SECTION.

27 N. FOR THE PURPOSES OF THIS SECTION:

28 1. "CLOSELY HELD" MEANS FIVE OR FEWER INDIVIDUALS OWN MORE THAN FIFTY
29 PER CENT OF THE OWNERSHIP INTEREST IN THE COMPANY, CORPORATION OR
30 PARTNERSHIP.

31 2. "FAMILY OWNED" MEANS MORE THAN FIFTY PER CENT OF THE OWNERSHIP
32 INTEREST IN THE COMPANY, CORPORATION OR PARTNERSHIP IS OWNED BY MEMBERS OF
33 THE SAME FAMILY.

34 3. "FIXED ASSETS" MEANS PROPERTY THAT IS USED IN OPERATING A BUSINESS,
35 SUCH AS FURNITURE, LAND, BUILDINGS AND MACHINERY, AND THAT IS NOT ORDINARILY
36 CONVERTED INTO CASH AFTER THEY ARE DECLARED FIXED ASSETS.

37 4. "GREEN MANUFACTURING BUSINESS" MEANS A MANUFACTURING ENTERPRISE
38 THAT MEETS ALL OF THE FOLLOWING REQUIREMENTS WHEN CERTIFIED OR RECERTIFIED BY
39 THE DEPARTMENT OF COMMERCE:

40 (a) THE BUSINESS IS INDEPENDENTLY OWNED AND OPERATED.

41 (b) THE BUSINESS IS LOCATED IN CAPITAL FACILITIES IN THIS STATE THAT
42 ARE CERTIFIED PURSUANT TO THE UNITED STATES GREEN BUILDING COUNCIL LEADERSHIP
43 IN ENERGY AND ENVIRONMENTAL DESIGN (LEED) GREEN BUILDING STANDARDS.

(c) THE BUSINESS USES TECHNOLOGIES, PRODUCTS, GOODS AND SERVICES IN THE MANUFACTURING PROCESS THAT MEASURE, PREVENT, LIMIT, MINIMIZE, CORRECT OR REDUCE ENVIRONMENTAL RISK AND MINIMIZE POLLUTION OF RESOURCES.

5. "INDEPENDENTLY OWNED AND OPERATED" MEANS NOT MORE THAN FIFTY PER CENT OF THE OWNERSHIP INTEREST IN THE GREEN MANUFACTURING BUSINESS IS HELD BY ANOTHER ENTITY UNLESS THE FINAL OWNERSHIP OF THE ENTITY IS FAMILY OWNED OR CLOSELY HELD.

6. "MANUFACTURING" MEANS FABRICATING, PRODUCING OR MANUFACTURING PRODUCTS, WARES OR ARTICLES FOR USE FROM RAW OR PREPARED MATERIALS AND IMPARTING TO THOSE MATERIALS NEW FORMS, QUALITIES, PROPERTIES AND COMBINATIONS. MANUFACTURING DOES NOT INCLUDE GENERATING ELECTRICITY AT A FACILITY ASSESSED PURSUANT TO TITLE 42, CHAPTER 14, ARTICLE 4.

41-1514.04. Green manufacturing income tax credits; certification; definitions

A. THE OWNER OF A GREEN MANUFACTURING BUSINESS IS ELIGIBLE FOR AN INCOME TAX CREDIT UNDER SECTION 43-1074.03 OR 43-1161.01 FOR NET INCREASES IN QUALIFIED EMPLOYMENT POSITIONS, EXCEPT EMPLOYMENT POSITIONS AT A LOCATION WHERE MORE THAN TEN PER CENT OF THE BUSINESS CONDUCTED AT THE LOCATION CONSISTS OF RETAIL SALES OF TANGIBLE PERSONAL PROPERTY, MEASURED EITHER BY THE NUMBER OF EMPLOYEES ASSIGNED TO RETAIL SALES OR THE SQUARE FOOTAGE OF THE FACILITY USED FOR RETAIL SALES ACTIVITIES AT THE LOCATION. RETAIL SALES AND RETAIL SALES ACTIVITIES DO NOT INCLUDE:

1. FOOD AND BEVERAGE FOR CONSUMPTION ON THE PREMISES SOLELY BY EMPLOYEES AND OCCASIONAL GUESTS OF EMPLOYEES AT THE LOCATION.
2. PROMOTIONAL PRODUCTS NOT AVAILABLE FOR SALE AND DISPLAYING THE COMPANY LOGO OR TRADEMARK.
3. PRODUCTS SOLD TO COMPANY EMPLOYEES.

B. TO QUALIFY FOR A TAX CREDIT, THE GREEN MANUFACTURING BUSINESS MUST:

1. CERTIFY TO THE DEPARTMENT OF REVENUE ON OR BEFORE THE DUE DATE OF THE TAX RETURN, INCLUDING ANY EXTENSIONS FOR THE YEAR FOR WHICH THE CREDIT IS CLAIMED, IN A FORM PRESCRIBED BY THE DEPARTMENT OF REVENUE INCLUDING ELECTRONIC MEDIA, INFORMATION THAT THE DEPARTMENT OF REVENUE MAY REQUIRE, INCLUDING THE OWNERSHIP INTERESTS OF CO-OWNERS OF THE BUSINESS IF THE BUSINESS IS A PARTNERSHIP, LIMITED LIABILITY COMPANY OR AN S CORPORATION, AND THE FOLLOWING INFORMATION FOR EACH EMPLOYEE IN THE LOCATION:

- (a) THE DATE OF INITIAL EMPLOYMENT.
- (b) THE NUMBER OF HOURS WORKED DURING THE YEAR.
- (c) WHETHER THE POSITION WAS FULL-TIME.
- (d) THE RESIDENCE OF THE EMPLOYEE.
- (e) THE EMPLOYEE'S ANNUAL COMPENSATION.
- (f) THE TOTAL COST OF HEALTH INSURANCE FOR THE EMPLOYEE AND THE COST PAID BY THE EMPLOYER.
- (g) IF THE EMPLOYEE HAD BEEN PREVIOUSLY EMPLOYED, THE LAST DATE OF PREVIOUS EMPLOYMENT.

2. REPORT AND CERTIFY TO THE DEPARTMENT OF COMMERCE THE FOLLOWING INFORMATION, AND PROVIDE SUPPORTING DOCUMENTATION, ON A FORM AND IN A MANNER APPROVED BY THE DEPARTMENT OF COMMERCE AND, AS SPECIFIED IN SUBSECTION C OF THIS SECTION, FOR EACH YEAR IN WHICH THE TAXPAYER EARNED AND CLAIMED OR USED CREDITS OR IS CARRYING FORWARD AMOUNTS FROM PREVIOUSLY EARNED AND CLAIMED CREDITS:

(a) THE BUSINESS NAME AND MAILING ADDRESS AND ANY OTHER CONTACT INFORMATION REQUESTED BY THE DEPARTMENT OF COMMERCE.

(b) THE BUSINESS LOCATION.

(c) THE AVERAGE HOURLY WAGE AND THE TOTAL AMOUNT OF COMPENSATION PAID TO EMPLOYEES QUALIFIED FOR THE CREDIT AND FOR ALL EMPLOYEES AT THE LOCATION.

(d) THE TOTAL NUMBER OF QUALIFIED EMPLOYMENT POSITIONS AND THE AMOUNT OF INCOME TAX CREDITS QUALIFIED FOR IN THE TAX YEAR.

(e) THE ESTIMATED AMOUNT OF TAX CREDITS TO BE USED IN THE TAX YEAR TO OFFSET TAX LIABILITY.

(f) THE ESTIMATED AMOUNT OF TAX CREDITS TO BE AVAILABLE FOR CARRYFORWARD IN THE TAX YEAR AND THE TAX YEAR IN WHICH THE CREDITS EXPIRE.

(g) THE NUMBER OF JOBS AND THE AMOUNT OF CREDITS EARNED AND CLAIMED ON THE PRIOR YEAR'S INCOME TAX RETURNS.

(h) THE AMOUNT OF CREDITS USED TO OFFSET TAX LIABILITIES ON THE PRIOR YEAR'S INCOME TAX RETURN.

(i) THE AMOUNT OF CREDITS AVAILABLE FOR CARRYFORWARD AS REPORTED ON THE PRIOR YEAR'S TAX RETURN AND THE TAX YEAR THE CREDITS EXPIRE.

(j) CAPITAL INVESTMENT MADE IN THIS STATE DURING THE TAX YEAR AND THE PRECEDING TAX YEAR.

(k) THAT EACH QUALIFIED EMPLOYMENT POSITION MEETS ALL OF THE FOLLOWING REQUIREMENTS:

(i) THE POSITION IS AT LEAST ONE THOUSAND SEVEN HUNDRED FIFTY HOURS PER YEAR OF FULL-TIME PERMANENT EMPLOYMENT.

(ii) ALL CREDITS THAT ARE BEING CLAIMED ARE FOR WAGES FOR JOB DUTIES PERFORMED PRIMARILY AT THE LOCATION OF THE BUSINESS.

(iii) THE EMPLOYMENT INCLUDES HEALTH INSURANCE COVERAGE FOR THE EMPLOYEE FOR WHICH THE EMPLOYER PAYS AT LEAST FIFTY PER CENT OF THE PREMIUM OR MEMBERSHIP COST. IF THE TAXPAYER IS SELF-INSURED, THE EMPLOYER PAYS AT LEAST FIFTY PER CENT OF A PREDETERMINED FIXED COST PER EMPLOYEE FOR AN INSURANCE PROGRAM THAT IS PAYABLE WHETHER OR NOT THE EMPLOYEE HAS FILED CLAIMS.

(iv) THE EMPLOYER PAYS COMPENSATION AT LEAST EQUAL TO THE WAGE OFFER BY COUNTY AS COMPUTED ANNUALLY BY THE DEPARTMENT OF ECONOMIC SECURITY RESEARCH ADMINISTRATION DIVISION.

(l) THAT THE ONLY RETAIL SALES ACTIVITIES ENGAGED IN AT THE LOCATION WERE AS SPECIFIED IN SUBSECTION A OF THIS SECTION.

(m) OTHER INFORMATION NECESSARY FOR THE MANAGEMENT AND REPORTING OF THE INCENTIVES UNDER THIS SECTION.

3. FOR ANY YEAR IN WHICH THE TAXPAYER IS CLAIMING FIRST YEAR CREDITS, REPORT AND CERTIFY THE FOLLOWING ADDITIONAL INFORMATION AND PROVIDE SUPPORTING DOCUMENTATION TO THE DEPARTMENT OF COMMERCE ON A FORM AND IN A MANNER APPROVED BY THE DEPARTMENT, AND AS SPECIFIED IN SUBSECTION C OF THIS SECTION:

(a) THAT ALL OF THE EMPLOYEES WITH RESPECT TO WHOM A CREDIT IS CLAIMED FOR RESIDED IN THIS STATE ON THE DATE OF EMPLOYMENT.

(b) THAT THE INCREASE IN THE NUMBER OF QUALIFIED EMPLOYMENT POSITIONS FOR WHICH CREDIT IS SOUGHT IS THE LEAST OF:

(i) THE TOTAL NUMBER OF FILLED QUALIFIED EMPLOYMENT POSITIONS CREATED AT THE LOCATION DURING THE TAXABLE YEAR.

(ii) THE DIFFERENCE BETWEEN THE AVERAGE NUMBER OF FULL-TIME EMPLOYEES AT THE LOCATION IN THE CURRENT TAX YEAR AND THE AVERAGE NUMBER OF FULL-TIME EMPLOYEES DURING THE IMMEDIATELY PRECEDING TAX YEAR.

(iii) TWO HUNDRED QUALIFIED EMPLOYMENT POSITIONS PER TAXPAYER EACH YEAR.

(c) THAT ALL EMPLOYEES FILLING A QUALIFIED EMPLOYMENT POSITION WERE EMPLOYED FOR AT LEAST NINETY DAYS DURING THE FIRST TAXABLE YEAR.

(d) THAT NONE OF THE EMPLOYEES FILLING QUALIFIED EMPLOYMENT POSITIONS WERE EMPLOYED BY THE TAXPAYER DURING THE TWELVE MONTHS BEFORE THE CURRENT DATE OF HIRE.

(e) THAT ALL EMPLOYEES FOR WHOM SECOND AND THIRD YEAR CREDITS ARE CLAIMED ARE IN QUALIFIED EMPLOYMENT POSITIONS FOR WHICH FIRST YEAR CREDITS WERE ALLOWED AND CLAIMED BY THE TAXPAYER ON THE ORIGINAL FIRST AND SECOND YEAR TAX RETURNS. FOR THE PURPOSES OF THIS SUBSECTION, THE REQUIREMENT TO CLAIM THE CREDIT ON THE ORIGINAL TAX RETURN DOES NOT APPLY TO QUALIFIED EMPLOYMENT POSITIONS CREATED BEFORE JANUARY 1, 2009 AND CERTIFIED TO THE DEPARTMENT OF COMMERCE.

(f) THAT ALL EMPLOYEES FOR WHOM CREDITS ARE TAKEN PERFORMED THEIR JOB DUTIES PRIMARILY AT THE LOCATION OF THE BUSINESS.

C. TO QUALIFY FOR FIRST YEAR CREDITS, THE REPORT AND CERTIFICATION PRESCRIBED BY SUBSECTION B, PARAGRAPHS 2 AND 3 OF THIS SECTION MUST BE FILED WITH THE DEPARTMENT OF COMMERCE BY THE EARLIER OF SIX MONTHS AFTER THE END OF THE TAXABLE YEAR IN WHICH THE QUALIFIED EMPLOYMENT POSITIONS WERE CREATED OR BY THE DATE THE TAX RETURN IS FILED FOR THE TAXABLE YEAR IN WHICH THE QUALIFIED EMPLOYMENT POSITIONS WERE CREATED. TO QUALIFY FOR SECOND YEAR CREDITS, THE REPORT AND CERTIFICATION PRESCRIBED BY SUBSECTION B, PARAGRAPH 2 OF THIS SECTION MUST BE FILED WITH THE DEPARTMENT OF COMMERCE BY THE EARLIER OF SIX MONTHS AFTER THE END OF THE TAXABLE YEAR OR THE DATE THE TAX RETURN IS FILED FOR THE TAXABLE YEAR IN WHICH THE SECOND YEAR CREDITS ARE ALLOWABLE. TO QUALIFY FOR THIRD YEAR CREDITS, THE REPORT AND CERTIFICATION PRESCRIBED BY SUBSECTION B, PARAGRAPH 2 OF THIS SECTION MUST BE FILED WITH THE DEPARTMENT OF COMMERCE BY THE EARLIER OF SIX MONTHS AFTER THE END OF THE TAXABLE YEAR OR THE DATE THE TAX RETURN IS FILED FOR THE TAXABLE YEAR IN WHICH THE THIRD YEAR CREDITS ARE ALLOWABLE.

D. ANY INFORMATION SUBMITTED TO THE DEPARTMENT OF COMMERCE UNDER SUBSECTION B, PARAGRAPH 2, SUBDIVISIONS (e) THROUGH (i) OF THIS SECTION IS EXEMPT FROM THE PROVISIONS OF TITLE 39, CHAPTER 1, ARTICLE 2 AND CONSIDERED TO BE CONFIDENTIAL AND IS NOT SUBJECT TO DISCLOSURE EXCEPT:

1. TO THE EXTENT THAT THE PERSON OR ORGANIZATION THAT PROVIDED THE INFORMATION CONSENTS TO THE DISCLOSURE.

2. TO THE DEPARTMENT OF REVENUE FOR USE IN TAX ADMINISTRATION.

E. DOCUMENTS FILED WITH THE DEPARTMENT OF COMMERCE AND THE DEPARTMENT OF REVENUE UNDER SUBSECTION B OF THIS SECTION SHALL CONTAIN EITHER A SWORN STATEMENT OR CERTIFICATION, SIGNED BY AN OFFICER OF THE COMPANY UNDER PENALTY OF PERJURY, THAT THE INFORMATION CONTAINED IS TRUE AND CORRECT ACCORDING TO THE BEST BELIEF AND KNOWLEDGE OF THE PERSON SUBMITTING THE INFORMATION AFTER A REASONABLE INVESTIGATION OF THE FACTS. IF THE DOCUMENT CONTAINS INFORMATION THAT IS MATERIALLY FALSE, THE TAXPAYER IS INELIGIBLE FOR THE TAX CREDITS DESCRIBED IN SUBSECTION A OF THIS SECTION AND IS SUBJECT TO RECOVERY OF THE AMOUNT OF TAX CREDITS ALLOWED IN PRECEDING TAXABLE YEARS BASED ON THE FALSE INFORMATION, PLUS PENALTIES AND INTEREST.

G. THE DEPARTMENT OF COMMERCE MAY MAKE SITE VISITS TO A TAXPAYER'S FACILITIES IF IT IS NECESSARY TO FURTHER DOCUMENT OR CLARIFY REPORTED INFORMATION. THE TAXPAYER MUST FREELY PROVIDE THE ACCESS.

H. THE DEPARTMENT BY RULE MAY PRESCRIBE ADDITIONAL REPORTING REQUIREMENTS FOR TAXPAYERS WHO CLAIM TAX BENEFITS PURSUANT TO THIS SECTION.

I. FOR THE PURPOSES OF THIS SECTION:

1. "ASSIGNED TO RETAIL" MEANS WORKING MORE THAN TWENTY-FIVE PER CENT OF AN EMPLOYEE'S TIME IN ONE OR MORE RETAIL SALES ACTIVITIES.

2. "GREEN MANUFACTURING BUSINESS" HAS THE SAME MEANING PRESCRIBED IN SECTION 41-1514.03.

3. "LOCATION" MEANS A SINGLE PARCEL OR CONTIGUOUS PARCELS OF OWNED OR LEASED LAND, THE STRUCTURES AND PERSONAL PROPERTY CONTAINED ON THE LAND OR ANY PART OF THE STRUCTURES OCCUPIED BY A TAXPAYER.

4. "RETAIL SALES" MEANS THE SALE OF TANGIBLE PERSONAL PROPERTY TO AN ULTIMATE CONSUMER.

5. "RETAIL SALES ACTIVITIES" MEANS ALL ACTIVITIES PERSONS OPERATING A RETAIL BUSINESS NORMALLY ENGAGE IN, INCLUDING TAKING ORDERS, FILLING ORDERS, BILLING ORDERS, RECEIVING AND PROCESSING PAYMENT AND SHIPPING, STOCKING AND DELIVERING TANGIBLE PERSONAL PROPERTY TO THE ULTIMATE CONSUMER, EXCEPT DROP SHIPMENTS BY A COMPANY ACTING ON BEHALF OF AN UNRELATED COMPANY THAT HAS MADE A SALE TO A FINAL CONSUMER.

Sec. 2. Title 41, chapter 10, article 2, Arizona Revised Statutes, is amended by adding section 41-1525.02, to read:

41-1525.02. Environmental technology tax incentives;
definitions

A. THROUGH JUNE 30, 2011, THE DEPARTMENT OF COMMERCE SHALL ESTABLISH AND CONDUCT AN ENVIRONMENTAL TECHNOLOGY ASSISTANCE PROGRAM TO PROMOTE BUSINESS AND ECONOMIC DEVELOPMENT IN ENTERPRISE ZONES BY RECRUITING AND

1 EXPANDING COMPANIES THAT MANUFACTURE, PRODUCE OR PROCESS SOLAR AND OTHER
2 RENEWABLE ENERGY PRODUCTS OR PRODUCTS FROM RECYCLED MATERIALS UNDER THE
3 CONDITIONS PRESCRIBED BY THIS SECTION.

4 B. THE DEPARTMENT OF COMMERCE SHALL IDENTIFY AND CERTIFY TO THE
5 DEPARTMENT OF REVENUE AND COUNTY ASSESSORS THE NAMES AND RELEVANT INFORMATION
6 RELATING TO THE FACILITIES LOCATED IN ENTERPRISE ZONES OF QUALIFIED
7 ENVIRONMENTAL TECHNOLOGY MANUFACTURERS, PRODUCERS AND PROCESSORS FOR THE
8 PURPOSES OF AVAILABLE TAX INCENTIVES. THE DEPARTMENT OF COMMERCE MAY REVOKE
9 THE CERTIFICATION FOR FAILURE TO QUALIFY AND COMPLY WITH THE TERMS AND
10 CONDITIONS PRESCRIBED BY THIS SECTION AND SHALL IMMEDIATELY NOTIFY THE
11 DEPARTMENT OF REVENUE OF A REVOCATION. THE DEPARTMENT OF REVENUE MAY ALSO
12 REVOKE THE CERTIFICATION IF IT OBTAINS INFORMATION INDICATING A FAILURE TO
13 QUALIFY AND COMPLY. IF THE DEPARTMENT OF REVENUE PROPOSES TO REVOKE THE
14 CERTIFICATION OF AN ENVIRONMENTAL TECHNOLOGY MANUFACTURER, PRODUCER OR
15 PROCESSOR, THE DEPARTMENT SHALL AFFORD THAT PERSON THE RIGHTS OF APPEAL AS
16 PROVIDED IN TITLE 42, CHAPTER 1, ARTICLE 6. TO OBTAIN AND MAINTAIN
17 CERTIFICATION, AN ENVIRONMENTAL TECHNOLOGY MANUFACTURER, PRODUCER OR
18 PROCESSOR MUST:

19 1. APPLY TO THE DEPARTMENT OF COMMERCE.

20 2. SUBMIT AND RETAIN COPIES OF ALL REQUIRED INFORMATION, INCLUDING
21 INFORMATION RELATING TO THE ACTUAL OR PROJECTED NUMBER OF EMPLOYEES AT
22 QUALIFIED ENVIRONMENTAL TECHNOLOGY FACILITIES IN THE ENTERPRISE ZONE AND THE
23 ACTUAL OR PROJECTED ANNUAL CAPITAL INVESTMENT IN THOSE FACILITIES.

24 3. ALLOW SUCH INSPECTIONS AND AUDITS AS ARE NECESSARY TO VERIFY THE
25 ACCURACY OF THE SUBMITTED INFORMATION.

26 4. ON INITIAL APPLICATION, SUBMIT TO THE DEPARTMENT OF COMMERCE THE
27 INFORMATION REQUIRED BY SECTION 49-109, SUBSECTION B IN THE MANNER PRESCRIBED
28 IN SECTION 49-109, SUBSECTION C OR THE INFORMATION REQUIRED BY SECTION
29 49-109, SUBSECTION G, AS APPLICABLE. THE DEPARTMENT OF COMMERCE SHALL
30 CONSIDER THE INFORMATION SUBMITTED PURSUANT TO THIS PARAGRAPH IN THE
31 DEPARTMENT'S DETERMINATION OF CERTIFICATION AND MAY DENY CERTIFICATION IF
32 AFTER CONSULTATION WITH THE DEPARTMENT OF ENVIRONMENTAL QUALITY SERIOUS,
33 SUBSTANTIAL AND CONTINUING VIOLATIONS OF FEDERAL OR STATE ENVIRONMENTAL LAWS
34 ARE FOUND.

35 C. WITHIN SIXTY DAYS AFTER RECEIVING A COMPLETE APPLICATION AND ALL
36 INFORMATION REQUIRED, AS PRESCRIBED BY THE DEPARTMENT OF COMMERCE, THE
37 DEPARTMENT OF COMMERCE SHALL GRANT OR DENY CERTIFICATION AND GIVE WRITTEN
38 NOTICE BY CERTIFIED MAIL TO THE APPLICANT. THE APPLICANT IS CERTIFIED AS A
39 QUALIFIED ENVIRONMENTAL TECHNOLOGY MANUFACTURER, PRODUCER OR PROCESSOR ON THE
40 DATE THE NOTICE OF CERTIFICATION IS DELIVERED TO THE APPLICANT.

41 D. TO QUALIFY FOR TAX INCENTIVES PURSUANT TO THIS SECTION, AN
42 ENVIRONMENTAL TECHNOLOGY MANUFACTURER, PRODUCER OR PROCESSOR MUST MEET THE
43 FOLLOWING REQUIREMENTS:

44 1. A CERTIFIED MANUFACTURER, PRODUCER OR PROCESSOR SHALL NOT AS OF THE
45 DATE OF CERTIFICATION IMPORT HAZARDOUS WASTE, AS DEFINED IN SECTION 49-921,

1 AND AS INTERPRETED BY FEDERAL AND STATE REGULATIONS OR SPECIAL WASTE, AS
2 DEFINED IN SECTION 49-851, INTO THIS STATE FROM ANOTHER STATE OR COUNTRY.
3 THIS PARAGRAPH DOES NOT APPLY TO ANY ENVIRONMENTAL TECHNOLOGY MANUFACTURER,
4 PRODUCER OR PROCESSOR, OR FACILITIES AND THEIR SUBSEQUENT EXPANSIONS AND
5 REPLACEMENTS THAT HOLD A STORAGE OR TREATMENT FACILITY PERMIT ISSUED BY THE
6 DEPARTMENT OF ENVIRONMENTAL QUALITY PURSUANT TO 40 CODE OF FEDERAL
7 REGULATIONS SECTION 270.10 OR HAS OBTAINED PLAN APPROVAL FROM THE DEPARTMENT
8 OF ENVIRONMENTAL QUALITY PURSUANT TO SECTION 49-762, THAT SPECIFICALLY
9 AUTHORIZES THE ACCEPTANCE OF SPECIAL WASTE, FOR AN EXISTING OR PROPOSED
10 RECYCLING OPERATION, OR IMPORT HAZARDOUS OR SPECIAL WASTES FOR RECYCLING
11 PURPOSES.

12 2. THE MANUFACTURER, PRODUCER OR PROCESSOR SHALL LOCATE OR MAKE AN
13 ADDITIONAL CAPITAL INVESTMENT IN A FACILITY IN THE ENTERPRISE ZONE THAT:

14 (a) IS EITHER OWNED BY A QUALIFIED ENVIRONMENTAL TECHNOLOGY
15 MANUFACTURER, PRODUCER OR PROCESSOR, OR LEASED BY A QUALIFIED ENVIRONMENTAL
16 TECHNOLOGY MANUFACTURER, PRODUCER OR PROCESSOR FOR A TERM OF FIVE OR MORE
17 YEARS.

18 (b) IS USED PREDOMINANTLY TO DO ANY OF THE FOLLOWING:

19 (i) SORT, STORE, PREPARE, CONVERT, FABRICATE, MANUFACTURE OR OTHERWISE
20 PROCESS FINISHED PRODUCTS CONSISTING OF AT LEAST NINETY PER CENT RECYCLED
21 MATERIALS.

22 (ii) PREPARE, FABRICATE, MANUFACTURE OR OTHERWISE PROCESS FINISHED
23 PRODUCTS THAT ARE POWERED EXCLUSIVELY WITH SOLAR OR OTHER SPECIFIC RENEWABLE
24 ENERGY.

25 (iii) PREPARE, FABRICATE, MANUFACTURE OR OTHERWISE PROCESS RAW
26 MATERIAL OR INTERMEDIATE PRODUCT EXCLUSIVELY THROUGH A HYDROMETALLURGICAL
27 PROCESS WHERE AT LEAST EIGHTY-FIVE PER CENT OF THE PROCESS SOLUTION USED TO
28 PRODUCE THE FINISHED PRODUCT IS RECYCLED ON SITE FOR ADDITIONAL PRODUCTION.

29 (iv) FABRICATE OR MANUFACTURE FINISHED PAPER PRODUCTS THAT CONSIST OF
30 AT LEAST EIGHTY PER CENT RECYCLED MATERIAL.

31 (c) COSTS, OR IS EXPECTED TO COST, AN AGGREGATE OF AT LEAST TWENTY
32 MILLION DOLLARS OF NEW CAPITAL INVESTMENT IN THE ENTERPRISE ZONE WITHIN FIVE
33 YEARS AFTER CONSTRUCTION BEGINS OR COMMENCEMENT OF INSTALLATION OF
34 IMPROVEMENTS.

35 E. CERTIFICATION AND QUALIFICATION BY AN ENVIRONMENTAL TECHNOLOGY
36 MANUFACTURER, PRODUCER OR PROCESSOR FOR PURPOSES OF THIS SECTION DOES NOT
37 CONSTITUTE COMPLIANCE WITH ANY PROVISION OF TITLE 49 OR ANY RULE, ORDER,
38 PROCEDURE, PERMIT OR OTHER REGULATORY MEASURE REQUIRED PURSUANT TO TITLE 49.
39 AN ENVIRONMENTAL TECHNOLOGY MANUFACTURER, PRODUCER OR PROCESSOR SHALL COMPLY
40 WITH ALL APPLICABLE ENVIRONMENTAL REQUIREMENTS OF THE DEPARTMENT OF
41 ENVIRONMENTAL QUALITY SEPARATELY AND INDEPENDENTLY FROM QUALIFYING FOR TAX
42 INCENTIVES PURSUANT TO THIS SECTION. FOR THE PURPOSES OF COMPLYING WITH
43 TITLE 49, ALL DEFINITIONS IN THAT TITLE AND THOSE ADOPTED IN RULES PURSUANT
44 TO THAT TITLE APPLY.

45 F. TO QUALIFY FOR TAX INCENTIVES THE TAXPAYER MUST:

1 1. AGREE WITH THE DEPARTMENT OF COMMERCE IN WRITING TO FURNISH
2 INFORMATION RELATING TO THE AMOUNT OF TAX BENEFITS THE TAXPAYER RECEIVES EACH
3 YEAR. IF THE TAXPAYER FAILS TO PROVIDE THE REQUIRED INFORMATION, THE
4 DEPARTMENT OF COMMERCE SHALL IMMEDIATELY REVOKE THE TAXPAYER'S QUALIFICATION
5 AND NOTIFY THE DEPARTMENT OF REVENUE.

6 2. ENTER INTO A MEMORANDUM OF UNDERSTANDING WITH THIS STATE THROUGH
7 THE DEPARTMENT OF COMMERCE CONTAINING EMPLOYMENT GOALS. EACH YEAR THE
8 TAXPAYER MUST REPORT IN WRITING TO THE DEPARTMENT OF COMMERCE ITS PERFORMANCE
9 IN ACHIEVING THE GOALS. THE MEMORANDUM SHALL CONTAIN PROVISIONS THAT ALLOW:

10 (a) THE DEPARTMENT OF COMMERCE TO STOP, READJUST OR RECAPTURE ALL OR
11 PART OF THE TAX INCENTIVES PROVIDED TO THE TAXPAYER ON NONCOMPLIANCE WITH THE
12 TERMS OF THE MEMORANDUM.

13 (b) THE DEPARTMENT OF COMMERCE TO NOTIFY THE DEPARTMENT OF REVENUE AND
14 COUNTY ASSESSOR OF THE CONDITIONS OF NONCOMPLIANCE.

15 (c) THE DEPARTMENT OF REVENUE TO REQUIRE THE TAXPAYER TO FILE
16 APPROPRIATE AMENDED TAX RETURNS REFLECTING THE RECAPTURE OF THE TAX
17 INCENTIVES.

18 G. THE DEPARTMENT OF COMMERCE SHALL NOT REVOKE A CERTIFICATION OR
19 DISQUALIFY A MANUFACTURER, PRODUCER OR PROCESSOR THAT IS CERTIFIED UNDER THIS
20 SECTION BECAUSE OF THE ADOPTION AFTER CERTIFICATION OF A RULE OR A FEDERAL
21 REGULATION RELATING TO THE REQUIREMENTS UNDER SUBSECTION D OF THIS SECTION.

22 H. THE CERTIFICATION OF A QUALIFIED ENVIRONMENTAL TECHNOLOGY
23 MANUFACTURER, PRODUCER OR PROCESSOR MAY BE ASSIGNED OR TRANSFERRED TO ONE OR
24 MORE SUCCESSOR TAXPAYERS, MANUFACTURERS, PRODUCERS OR PROCESSORS THAT HAVE
25 ACQUIRED AND CONTINUE TO OPERATE A FACILITY THAT WAS USED TO MEET THE
26 QUALIFICATIONS PRESCRIBED IN SUBSECTION D OF THIS SECTION AND THAT CONTINUES
27 TO BE USED PREDOMINANTLY FOR THE PURPOSES PRESCRIBED IN SUBSECTION D,
28 PARAGRAPH 2, SUBDIVISION (b) OF THIS SECTION.

29 I. FOR PURPOSES OF THIS SECTION:

30 1. "ENVIRONMENTAL TECHNOLOGY" MEANS SOLAR AND OTHER RENEWABLE ENERGY
31 PRODUCTS OR RECYCLED MATERIALS.

32 2. "FACILITY" INCLUDES A SINGLE FACILITY, A COMBINATION OF FACILITIES,
33 LAND, IMPROVEMENTS, BUILDING IMPROVEMENTS, REAL AND PERSONAL PROPERTY USED
34 FOR ENVIRONMENTAL PROTECTION FACILITIES AS DEFINED IN SECTION 42-14154,
35 PROPERTY USED TO GENERATE ON-SITE POWER OR ENERGY AND MACHINERY AND
36 EQUIPMENT.

37 3. "FINISHED PAPER PRODUCT" MEANS A PAPER ITEM OR COMMODITY OR ONE OF
38 ITS COMPONENTS, INCLUDING NEWSPRINT, PAPER NAPKINS, PAPER TOWELS, CORRUGATED
39 PAPER AND RELATED CELLULOSIC PRODUCTS, THAT CONTAINS AT LEAST EIGHTY PER CENT
40 RECYCLED MATERIALS AND NOT MORE THAN TEN PER CENT NONCELLULOSIC MATERIAL SUCH
41 AS LAMINATES, BINDERS OR SATURANTS, THAT HAS ECONOMIC VALUE TO A CONSUMER OR
42 PURCHASER AND THAT IS READY TO BE USED WITH OR WITHOUT FURTHER ALTERING ITS
43 FORM.

1 4. "FINISHED PRODUCT" MEANS A MARKETABLE PRODUCT OR COMPONENT OF A
2 PRODUCT THAT HAS ECONOMIC VALUE TO A PURCHASER AND THAT IS READY TO BE USED
3 WITH OR WITHOUT FURTHER ALTERING ITS FORM.

4 5. "HYDROMETALLURGICAL PROCESSING" INCLUDES FACILITIES USED
5 EXCLUSIVELY FOR SOLVENT EXTRACTION ELECTROWINNING, HYDROMETALLURGICAL
6 RECOVERY, PRECIPITATION AND REFINING, BUT DOES NOT INCLUDE SMELTERS, OPEN PIT
7 AND UNDERGROUND MINES AND CONCENTRATOR PROCESSES.

8 6. "MACHINERY AND EQUIPMENT" MEANS MACHINERY AND EQUIPMENT THAT ARE
9 DIRECTLY OR INDIRECTLY USED TO DO ANY OF THE FOLLOWING:

10 (a) SORT, STORE, PREPARE, CONVERT, FABRICATE, MANUFACTURE OR OTHERWISE
11 PROCESS FINISHED PRODUCTS CONSISTING OF AT LEAST NINETY PER CENT RECYCLED
12 MATERIALS, INCLUDING ALL MACHINERY AND EQUIPMENT DESIGNED AND USED FOR
13 ENVIRONMENTAL PROTECTION ON SITE AS WELL AS ALL MACHINERY AND EQUIPMENT USED
14 TO GENERATE POWER OR ENERGY FOR USE ON SITE.

15 (b) PREPARE, FABRICATE, MANUFACTURE OR OTHERWISE PROCESS FINISHED
16 PRODUCTS THAT ARE POWERED EXCLUSIVELY WITH SOLAR OR OTHER SPECIFIC RENEWABLE
17 ENERGY.

18 (c) PREPARE, FABRICATE, MANUFACTURE OR OTHERWISE PROCESS RAW MATERIAL
19 OR INTERMEDIATE PRODUCT EXCLUSIVELY THROUGH A HYDROMETALLURGICAL PROCESS
20 WHERE AT LEAST EIGHTY-FIVE PER CENT OF THE PROCESS SOLUTION USED TO PRODUCE
21 THE FINISHED PRODUCT IS RECYCLED ON SITE FOR ADDITIONAL PRODUCTION.

22 (d) FABRICATE OR MANUFACTURE FINISHED PAPER PRODUCTS THAT CONSIST OF
23 AT LEAST EIGHTY PER CENT RECYCLED MATERIALS, INCLUDING ALL MACHINERY AND
24 EQUIPMENT THAT IS DESIGNED AND USED FOR ENVIRONMENTAL PROTECTION ON SITE AND
25 MACHINERY AND EQUIPMENT THAT IS USED TO GENERATE POWER OR ENERGY FOR USE ON
26 SITE.

27 7. "PROCESS SOLUTION" MEANS SOLUTION THAT IS REQUIRED THROUGHOUT THE
28 HYDROMETALLURGICAL PROCESS AND FROM WHICH THE FINISHED PRODUCT IS EXTRACTED.

29 8. "QUALIFIED ENVIRONMENTAL TECHNOLOGY MANUFACTURER, PRODUCER OR
30 PROCESSOR" OR "QUALIFIED ENVIRONMENTAL TECHNOLOGY FACILITY" MEANS AN ENTITY
31 THAT FOR PURPOSES OF TITLES 42 AND 43 MEETS THE QUALIFICATIONS PRESCRIBED IN
32 SUBSECTION D OF THIS SECTION AND IS CERTIFIED BY THE DEPARTMENT OF COMMERCE
33 PURSUANT TO SUBSECTION B OF THIS SECTION.

34 9. "RECYCLED MATERIALS" MEANS MATERIALS THAT HAVE BEEN SEPARATED,
35 RECOVERED OR DIVERTED FROM THE SOLID WASTE STREAM AND PROCESSED AND RETURNED
36 TO THE ECONOMIC STREAM IN THE FORM OF RAW MATERIALS OR FINISHED PRODUCTS.
37 RECYCLED MATERIALS INCLUDE WORK IN PROCESS BY THE ENVIRONMENTAL TECHNOLOGY
38 MANUFACTURING, PRODUCING OR PROCESSING COMPANY THAT IS COMPOSED OF AT LEAST
39 NINETY PER CENT RECYCLED MATERIALS AND THAT WILL BE FURTHER PROCESSED INTO A
40 FINISHED PRODUCT.

41 10. "RENEWABLE ENERGY" MEANS ENERGY THAT IS SUPPLIED FROM SOURCES THAT
42 ARE CONTINUALLY REPLENISHED FROM THE SUN, THE EARTH OR THE WASTE STREAM,
43 INCLUDING HYDROELECTRIC, SOLAR-THERMAL, PHOTOVOLTAIC, BIOMASS, WIND AND
44 GEOTHERMAL PROCESSES.

11. "SOLID WASTE" MEANS ANY GARBAGE, TRASH, RUBBISH, REFUSE, SLUDGE FROM A WASTE TREATMENT PLANT, WATER SUPPLY TREATMENT PLANT OR POLLUTION CONTROL FACILITY AND OTHER DISCARDED MATERIAL, INCLUDING SOLID, LIQUID, SEMISOLID OR CONTAINED GASEOUS MATERIAL RESULTING FROM INDUSTRIAL, AGRICULTURAL, SILVICULTURAL AND COMMERCIAL OPERATIONS AND FROM COMMUNITY ACTIVITIES, BUT NOT INCLUDING DOMESTIC SEWAGE OR HAZARDOUS WASTE UNLESS SUCH WASTE IS RECEIVED BY AN ENVIRONMENTAL TECHNOLOGY MANUFACTURER, PRODUCER OR PROCESSOR THAT HOLDS A STORAGE FACILITY PERMIT ISSUED BY THE DEPARTMENT OF ENVIRONMENTAL QUALITY PURSUANT TO 40 CODE OF FEDERAL REGULATIONS SECTION 270.10.

Sec. 3. Section 42-5061, Arizona Revised Statutes, is amended to read: 42-5061. Retail classification; definitions

A. The retail classification is comprised of the business of selling tangible personal property at retail. The tax base for the retail classification is the gross proceeds of sales or gross income derived from the business. The tax imposed on the retail classification does not apply to the gross proceeds of sales or gross income from:

1. Professional or personal service occupations or businesses which involve sales or transfers of tangible personal property only as inconsequential elements.

2. Services rendered in addition to selling tangible personal property at retail.

3. Sales of warranty or service contracts. The storage, use or consumption of tangible personal property provided under the conditions of such contracts is subject to tax under section 42-5156.

4. Sales of tangible personal property by any nonprofit organization organized and operated exclusively for charitable purposes and recognized by the United States internal revenue service under section 501(c)(3) of the internal revenue code.

5. Sales to persons engaged in business classified under the restaurant classification of articles used by human beings for food, drink or condiment, whether simple, mixed or compounded.

6. Business activity which is properly included in any other business classification which is taxable under THIS article ~~2 of this chapter~~.

7. The sale of stocks and bonds.

8. Drugs and medical oxygen, including delivery hose, mask or tent, regulator and tank, on the prescription of a member of the medical, dental or veterinarian profession who is licensed by law to administer such substances.

9. Prosthetic appliances as defined in section 23-501 prescribed or recommended by a health professional WHO IS licensed pursuant to title 32, chapter 7, 8, 11, 13, 14, 15, 16, 17 or 29.

10. Insulin, insulin syringes and glucose test strips.

11. Prescription eyeglasses or contact lenses.

12. Hearing aids as defined in section 36-1901.

1 13. Durable medical equipment which has a centers for medicare and
2 medicaid services common procedure code, is designated reimbursable by
3 medicare, is prescribed by a person who is licensed under title 32, chapter
4 7, 8, 13, 14, 15, 17 or 29, can withstand repeated use, is primarily and
5 customarily used to serve a medical purpose, is generally not useful to a
6 person in the absence of illness or injury and is appropriate for use in the
7 home.

8 14. Sales to nonresidents of this state for use outside this state if
9 the vendor ships or delivers the tangible personal property out of this
10 state.

11 15. Food, as provided in and subject to the conditions of article 3 of
12 this chapter and section 42-5074.

13 16. Items purchased with United States department of agriculture food
14 stamp coupons issued under the food stamp act of 1977 (P.L. 95-113; 91 Stat.
15 958) or food instruments issued under section 17 of the child nutrition act
16 (P.L. 95-627; 92 Stat. 3603; P.L. 99-661, section 4302; 42 United States Code
17 section 1786).

18 17. Textbooks by any bookstore that are required by any state
19 university or community college.

20 18. Food and drink to a person who is engaged in business which is
21 classified under the restaurant classification and which provides such food
22 and drink without monetary charge to its employees for their own consumption
23 on the premises during the employees' hours of employment.

24 19. Articles of food, drink or condiment and accessory tangible
25 personal property to a school district if such articles and accessory
26 tangible personal property are to be prepared and served to persons for
27 consumption on the premises of a public school within the district during
28 school hours.

29 20. Lottery tickets or shares pursuant to title 5, chapter 5,
30 article 1.

31 21. The sale of precious metal bullion and monetized bullion to the
32 ultimate consumer, but the sale of coins or other forms of money for
33 manufacture into jewelry or works of art is subject to the tax. For the
34 purposes of this paragraph:

35 (a) "Monetized bullion" means coins and other forms of money which are
36 manufactured from gold, silver or other metals and which have been or are
37 used as a medium of exchange in this or another state, the United States or a
38 foreign nation.

39 (b) "Precious metal bullion" means precious metal, including gold,
40 silver, platinum, rhodium and palladium, which has been smelted or refined so
41 that its value depends on its contents and not on its form.

42 22. Motor vehicle fuel and use fuel which are subject to a tax imposed
43 under title 28, chapter 16, article 1, sales of use fuel to a holder of a
44 valid single trip use fuel tax permit issued under section 28-5739, sales of
45 aviation fuel which are subject to the tax imposed under section 28-8344 and

1 sales of jet fuel which are subject to the tax imposed under article 8 of
2 this chapter.

3 23. Tangible personal property sold to a person engaged in the business
4 of leasing or renting such property under the personal property rental
5 classification if such property is to be leased or rented by such person.

6 24. Tangible personal property sold in interstate or foreign commerce
7 if prohibited from being so taxed by the Constitution of the United States or
8 the constitution of this state.

9 25. Tangible personal property sold to:

10 (a) A qualifying hospital as defined in section 42-5001.

11 (b) A qualifying health care organization as defined in section
12 42-5001 if the tangible personal property is used by the organization solely
13 to provide health and medical related educational and charitable services.

14 (c) A qualifying health care organization as defined in section
15 42-5001 if the organization is dedicated to providing educational,
16 therapeutic, rehabilitative and family medical education training for blind,
17 visually impaired and multihandicapped children from the time of birth to age
18 twenty-one.

19 (d) A qualifying community health center as defined in section
20 42-5001.

21 (e) A nonprofit charitable organization that has qualified under
22 section 501(c)(3) of the internal revenue code and that regularly serves
23 meals to the needy and indigent on a continuing basis at no cost.

24 (f) For taxable periods beginning from and after June 30, 2001, a
25 nonprofit charitable organization that has qualified under section 501(c)(3)
26 of the internal revenue code and that provides residential apartment housing
27 for low income persons over sixty-two years of age in a facility that
28 qualifies for a federal housing subsidy, if the tangible personal property is
29 used by the organization solely to provide residential apartment housing for
30 low income persons over sixty-two years of age in a facility that qualifies
31 for a federal housing subsidy.

32 26. Magazines or other periodicals or other publications by this state
33 to encourage tourist travel.

34 27. Tangible personal property sold to a person that is subject to tax
35 under this article by reason of being engaged in business classified under
36 the prime contracting classification under section 42-5075, or to a
37 subcontractor working under the control of a prime contractor that is subject
38 to tax under article 1 of this chapter, if the property so sold is any of the
39 following:

40 (a) Incorporated or fabricated by the person into any real property,
41 structure, project, development or improvement as part of the business.

42 (b) Used in environmental response or remediation activities under
43 section 42-5075, subsection B, paragraph 6.

44 (c) Incorporated or fabricated by the person into any lake facility
45 development in a commercial enhancement reuse district under conditions

1 prescribed for the deduction allowed by section 42-5075, subsection B,
2 paragraph 8.

3 28. The sale of a motor vehicle to:

4 (a) A nonresident of this state if the purchaser's state of residence
5 does not allow a corresponding use tax exemption to the tax imposed by
6 article 1 of this chapter and if the nonresident has secured a special ninety
7 day nonresident registration permit for the vehicle as prescribed by sections
8 28-2154 and 28-2154.01.

9 (b) An enrolled member of an Indian tribe who resides on the Indian
10 reservation established for that tribe.

11 29. Tangible personal property purchased in this state by a nonprofit
12 charitable organization that has qualified under section 501(c)(3) of the
13 United States internal revenue code and that engages in and uses such
14 property exclusively in programs for mentally or physically handicapped
15 persons if the programs are exclusively for training, job placement,
16 rehabilitation or testing.

17 30. Sales of tangible personal property by a nonprofit organization
18 that is exempt from taxation under section 501(c)(3), 501(c)(4) or 501(c)(6)
19 of the internal revenue code if the organization is associated with a major
20 league baseball team or a national touring professional golfing association
21 and no part of the organization's net earnings inures to the benefit of any
22 private shareholder or individual.

23 31. Sales of commodities, as defined by title 7 United States Code
24 section 2, that are consigned for resale in a warehouse in this state in or
25 from which the commodity is deliverable on a contract for future delivery
26 subject to the rules of a commodity market regulated by the United States
27 commodity futures trading commission.

28 32. Sales of tangible personal property by a nonprofit organization
29 that is exempt from taxation under section 501(c)(3), 501(c)(4), 501(c)(6),
30 501(c)(7) or 501(c)(8) of the internal revenue code if the organization
31 sponsors or operates a rodeo featuring primarily farm and ranch animals and
32 no part of the organization's net earnings inures to the benefit of any
33 private shareholder or individual.

34 33. Sales of seeds, seedlings, roots, bulbs, cuttings and other
35 propagative material to persons who use those items to commercially produce
36 agricultural, horticultural, viticultural or floricultural crops in this
37 state.

38 34. Machinery, equipment, technology or related supplies that are only
39 useful to assist a person who is physically disabled as defined in section
40 46-191, has a developmental disability as defined in section 36-551 or has a
41 head injury as defined in section 41-3201 to be more independent and
42 functional.

43 35. Sales of tangible personal property that is shipped or delivered
44 directly to a destination outside the United States for use in that foreign
45 country.

36. Sales of natural gas or liquefied petroleum gas used to propel a motor vehicle.

37. Paper machine clothing, such as forming fabrics and dryer felts, sold to a paper manufacturer and directly used or consumed in paper manufacturing.

38. Coal, petroleum, coke, natural gas, virgin fuel oil and electricity sold to a qualified environmental technology manufacturer, producer or processor as defined in section 41-1514.02 and directly used or consumed in the generation or provision of on-site power or energy solely for environmental technology manufacturing, producing or processing or environmental protection. This paragraph shall apply for fifteen full consecutive calendar or fiscal years from the date the first paper manufacturing machine is placed in service. In the case of an environmental technology manufacturer, producer or processor who does not manufacture paper, the time period shall begin with the date the first manufacturing, processing or production equipment is placed in service. **THIS PARAGRAPH DOES NOT APPLY WITH RESPECT TO AN ENVIRONMENTAL TECHNOLOGY MANUFACTURER, PRODUCER OR PROCESSOR THAT IS LOCATED IN AN ENTERPRISE ZONE AND CERTIFIED PURSUANT TO SECTION 41-1525.02.**

39. Sales of liquid, solid or gaseous chemicals used in manufacturing, processing, fabricating, mining, refining, metallurgical operations, research and development and, beginning on January 1, 1999, printing, if using or consuming the chemicals, alone or as part of an integrated system of chemicals, involves direct contact with the materials from which the product is produced for the purpose of causing or permitting a chemical or physical change to occur in the materials as part of the production process. This paragraph does not include chemicals that are used or consumed in activities such as packaging, storage or transportation but does not affect any deduction for such chemicals that is otherwise provided by this section. For the purposes of this paragraph, "printing" means a commercial printing operation and includes job printing, engraving, embossing, copying and bookbinding.

40. Through December 31, 1994, personal property liquidation transactions, conducted by a personal property liquidator. From and after December 31, 1994, personal property liquidation transactions shall be taxable under this section provided that nothing in this subsection shall be construed to authorize the taxation of casual activities or transactions under this chapter. For the purposes of this paragraph:

(a) "Personal property liquidation transaction" means a sale of personal property made by a personal property liquidator acting solely on behalf of the owner of the personal property sold at the dwelling of the owner or upon the death of any owner, on behalf of the surviving spouse, if any, any devisee or heir or the personal representative of the estate of the deceased, if one has been appointed.

1 (b) "Personal property liquidator" means a person who is retained to
2 conduct a sale in a personal property liquidation transaction.

3 41. Sales of food, drink and condiment for consumption within the
4 premises of any prison, jail or other institution under the jurisdiction of
5 the state department of corrections, the department of public safety, the
6 department of juvenile corrections or a county sheriff.

7 42. A motor vehicle and any repair and replacement parts and tangible
8 personal property becoming a part of such motor vehicle sold to a motor
9 carrier who is subject to a fee prescribed in title 28, chapter 16, article 4
10 and who is engaged in the business of leasing or renting such property.

11 43. Livestock and poultry feed, salts, vitamins and other additives for
12 livestock or poultry consumption that are sold to persons who are engaged in
13 producing livestock, poultry, or livestock or poultry products or who are
14 engaged in feeding livestock or poultry commercially. For the purposes of
15 this paragraph, "poultry" includes ratites.

16 44. Sales of implants used as growth promotants and injectable
17 medicines, not already exempt under paragraph 8 of this subsection, for
18 livestock or poultry owned by or in possession of persons who are engaged in
19 producing livestock, poultry, or livestock or poultry products or who are
20 engaged in feeding livestock or poultry commercially. For the purposes of
21 this paragraph, "poultry" includes ratites.

22 45. Sales of motor vehicles at auction to nonresidents of this state
23 for use outside this state if the vehicles are shipped or delivered out of
24 this state, regardless of where title to the motor vehicles passes or its
25 free on board point.

26 46. Tangible personal property sold to a person engaged in business and
27 subject to tax under the transient lodging classification if the tangible
28 personal property is a personal hygiene item or articles used by human beings
29 for food, drink or condiment, except alcoholic beverages, which are furnished
30 without additional charge to and intended to be consumed by the transient
31 during the transient's occupancy.

32 47. Sales of alternative fuel, as defined in section 1-215, to a used
33 oil fuel burner who has received a permit to burn used oil or used oil fuel
34 under section 49-426 or 49-480.

35 48. Sales of materials that are purchased by or for publicly funded
36 libraries including school district libraries, charter school libraries,
37 community college libraries, state university libraries or federal, state,
38 county or municipal libraries for use by the public as follows:

39 (a) Printed or photographic materials, beginning August 7, 1985.

40 (b) Electronic or digital media materials, beginning July 17, 1994.

41 49. Tangible personal property sold to a commercial airline and
42 consisting of food, beverages and condiments and accessories used for serving
43 the food and beverages, if those items are to be provided without additional
44 charge to passengers for consumption in flight. For the purposes of this
45 paragraph, "commercial airline" means a person holding a federal certificate

1 of public convenience and necessity or foreign air carrier permit for air
2 transportation to transport persons, property or United States mail in
3 intrastate, interstate or foreign commerce.

4 50. Sales of alternative fuel vehicles if the vehicle was manufactured
5 as a diesel fuel vehicle and converted to operate on alternative fuel and
6 equipment that is installed in a conventional diesel fuel motor vehicle to
7 convert the vehicle to operate on an alternative fuel, as defined in section
8 1-215.

9 51. Sales of any spirituous, vinous or malt liquor by a person that is
10 licensed in this state as a wholesaler by the department of liquor licenses
11 and control pursuant to title 4, chapter 2, article 1.

12 52. Sales of tangible personal property to be incorporated or installed
13 as part of environmental response or remediation activities under section
14 42-5075, subsection B, paragraph 6.

15 53. Sales of tangible personal property by a nonprofit organization
16 that is exempt from taxation under section 501(c)(6) of the internal revenue
17 code if the organization produces, organizes or promotes cultural or civic
18 related festivals or events and no part of the organization's net earnings
19 inures to the benefit of any private shareholder or individual.

20 54. Through August 31, 2014, sales of Arizona centennial medallions by
21 the historical advisory commission.

22 55. Application services that are designed to assess or test student
23 learning or to promote curriculum design or enhancement purchased by or for
24 any school district, charter school, community college or state university.
25 For the purposes of this paragraph:

26 (a) "Application services" means software applications provided
27 remotely using hypertext transfer protocol or another network protocol.

28 (b) "Curriculum design or enhancement" means planning, implementing or
29 reporting on courses of study, lessons, assignments or other learning
30 activities.

31 B. In addition to the deductions from the tax base prescribed by
32 subsection A of this section, the gross proceeds of sales or gross income
33 derived from sales of the following categories of tangible personal property
34 shall be deducted from the tax base:

35 1. Machinery, or equipment, used directly in manufacturing,
36 processing, fabricating, job printing, refining or metallurgical operations.
37 The terms "manufacturing", "processing", "fabricating", "job printing",
38 "refining" and "metallurgical" as used in this paragraph refer to and include
39 those operations commonly understood within their ordinary meaning.
40 "Metallurgical operations" includes leaching, milling, precipitating,
41 smelting and refining.

42 2. Mining machinery, or equipment, used directly in the process of
43 extracting ores or minerals from the earth for commercial purposes, including
44 equipment required to prepare the materials for extraction and handling,
45 loading or transporting such extracted material to the surface. "Mining"

1 includes underground, surface and open pit operations for extracting ores and
2 minerals.

3 3. Tangible personal property sold to persons engaged in business
4 classified under the telecommunications classification and consisting of
5 central office switching equipment, switchboards, private branch exchange
6 equipment, microwave radio equipment and carrier equipment including optical
7 fiber, coaxial cable and other transmission media which are components of
8 carrier systems.

9 4. Machinery, equipment or transmission lines used directly in
10 producing or transmitting electrical power, but not including distribution.
11 Transformers and control equipment used at transmission substation sites
12 constitute equipment used in producing or transmitting electrical power.

13 5. Neat animals, horses, asses, sheep, ratites, swine or goats used or
14 to be used as breeding or production stock, including sales of breedings or
15 ownership shares in such animals used for breeding or production.

16 6. Pipes or valves four inches in diameter or larger used to transport
17 oil, natural gas, artificial gas, water or coal slurry, including compressor
18 units, regulators, machinery and equipment, fittings, seals and any other
19 part that is used in operating the pipes or valves.

20 7. Aircraft, navigational and communication instruments and other
21 accessories and related equipment sold to:

22 (a) A person holding a federal certificate of public convenience and
23 necessity, a supplemental air carrier certificate under federal aviation
24 regulations (14 Code of Federal Regulations part 121) or a foreign air
25 carrier permit for air transportation for use as or in conjunction with or
26 becoming a part of aircraft to be used to transport persons, property or
27 United States mail in intrastate, interstate or foreign commerce.

28 (b) Any foreign government for use by such government outside of this
29 state.

30 (c) Persons who are not residents of this state and who will not use
31 such property in this state other than in removing such property from this
32 state. This subdivision also applies to corporations that are not
33 incorporated in this state, regardless of maintaining a place of business in
34 this state, if the principal corporate office is located outside this state
35 and the property will not be used in this state other than in removing the
36 property from this state.

37 8. Machinery, tools, equipment and related supplies used or consumed
38 directly in repairing, remodeling or maintaining aircraft, aircraft engines
39 or aircraft component parts by or on behalf of a certificated or licensed
40 carrier of persons or property.

41 9. Railroad rolling stock, rails, ties and signal control equipment
42 used directly to transport persons or property.

43 10. Machinery or equipment used directly to drill for oil or gas or
44 used directly in the process of extracting oil or gas from the earth for
45 commercial purposes.

1 11. Buses or other urban mass transit vehicles which are used directly
2 to transport persons or property for hire or pursuant to a governmentally
3 adopted and controlled urban mass transportation program and which are sold
4 to bus companies holding a federal certificate of convenience and necessity
5 or operated by any city, town or other governmental entity or by any person
6 contracting with such governmental entity as part of a governmentally adopted
7 and controlled program to provide urban mass transportation.

8 12. Groundwater measuring devices required under section 45-604.

9 13. New machinery and equipment consisting of tractors, tractor-drawn
10 implements, self-powered implements, machinery and equipment necessary for
11 extracting milk, and machinery and equipment necessary for cooling milk and
12 livestock, and drip irrigation lines not already exempt under paragraph 6 of
13 this subsection and that are used for commercial production of agricultural,
14 horticultural, viticultural and floricultural crops and products in this
15 state. For the purposes of this paragraph:

16 (a) "New machinery and equipment" means machinery and equipment which
17 have never been sold at retail except pursuant to leases or rentals which do
18 not total two years or more.

19 (b) "Self-powered implements" includes machinery and equipment that
20 are electric-powered.

21 14. Machinery or equipment used in research and development. For the
22 purposes of this paragraph, "research and development" means basic and
23 applied research in the sciences and engineering, and designing, developing
24 or testing prototypes, processes or new products, including research and
25 development of computer software that is embedded in or an integral part of
26 the prototype or new product or that is required for machinery or equipment
27 otherwise exempt under this section to function effectively. Research and
28 development do not include manufacturing quality control, routine consumer
29 product testing, market research, sales promotion, sales service, research in
30 social sciences or psychology, computer software research that is not
31 included in the definition of research and development, or other
32 nontechnological activities or technical services.

33 15. Machinery and equipment that are purchased by or on behalf of the
34 owners of a soundstage complex and primarily used for motion picture,
35 multimedia or interactive video production in the complex. This paragraph
36 applies only if the initial construction of the soundstage complex begins
37 after June 30, 1996 and before January 1, 2002 and the machinery and
38 equipment are purchased before the expiration of five years after the start
39 of initial construction. For the purposes of this paragraph:

40 (a) "Motion picture, multimedia or interactive video production"
41 includes products for theatrical and television release, educational
42 presentations, electronic retailing, documentaries, music videos, industrial
43 films, CD-ROM, video game production, commercial advertising and television
44 episode production and other genres that are introduced through developing
45 technology.

1 (b) "Soundstage complex" means a facility of multiple stages including
2 production offices, construction shops and related areas, prop and costume
3 shops, storage areas, parking for production vehicles and areas that are
4 leased to businesses that complement the production needs and orientation of
5 the overall facility.

6 16. Tangible personal property that is used by either of the following
7 to receive, store, convert, produce, generate, decode, encode, control or
8 transmit telecommunications information:

9 (a) Any direct broadcast satellite television or data transmission
10 service that operates pursuant to 47 Code of Federal Regulations part 25.

11 (b) Any satellite television or data transmission facility, if both of
12 the following conditions are met:

13 (i) Over two-thirds of the transmissions, measured in megabytes,
14 transmitted by the facility during the test period were transmitted to or on
15 behalf of one or more direct broadcast satellite television or data
16 transmission services that operate pursuant to 47 Code of Federal Regulations
17 part 25.

18 (ii) Over two-thirds of the transmissions, measured in megabytes,
19 transmitted by or on behalf of those direct broadcast television or data
20 transmission services during the test period were transmitted by the facility
21 to or on behalf of those services.

22 For the purposes of subdivision (b) of this paragraph, "test period" means
23 the three hundred sixty-five day period beginning on the later of the date on
24 which the tangible personal property is purchased or the date on which the
25 direct broadcast satellite television or data transmission service first
26 transmits information to its customers.

27 17. Clean rooms that are used for manufacturing, processing,
28 fabrication or research and development, as defined in paragraph 14 of this
29 subsection, of semiconductor products. For the purposes of this paragraph,
30 "clean room" means all property that comprises or creates an environment
31 where humidity, temperature, particulate matter and contamination are
32 precisely controlled within specified parameters, without regard to whether
33 the property is actually contained within that environment or whether any of
34 the property is affixed to or incorporated into real property. Clean room:

35 (a) Includes the integrated systems, fixtures, piping, movable
36 partitions, lighting and all property that is necessary or adapted to reduce
37 contamination or to control airflow, temperature, humidity, chemical purity
38 or other environmental conditions or manufacturing tolerances, as well as the
39 production machinery and equipment operating in conjunction with the clean
40 room environment.

41 (b) Does not include the building or other permanent, nonremovable
42 component of the building that houses the clean room environment.

43 18. Machinery and equipment used directly in the feeding of poultry,
44 the environmental control of housing for poultry, the movement of eggs within

1 a production and packaging facility or the sorting or cooling of eggs. This
2 exemption does not apply to vehicles used for transporting eggs.

3 19. Machinery or equipment, including related structural components,
4 that is employed in connection with manufacturing, processing, fabricating,
5 job printing, refining, mining, natural gas pipelines, metallurgical
6 operations, telecommunications, producing or transmitting electricity or
7 research and development and that is used directly to meet or exceed rules or
8 regulations adopted by the federal energy regulatory commission, the United
9 States environmental protection agency, the United States nuclear regulatory
10 commission, the Arizona department of environmental quality or a political
11 subdivision of this state to prevent, monitor, control or reduce land, water
12 or air pollution.

13 20. Machinery and equipment that are sold to a person engaged in the
14 commercial production of livestock, livestock products or agricultural,
15 horticultural, viticultural or floricultural crops or products in this state
16 and that are used directly and primarily to prevent, monitor, control or
17 reduce air, water or land pollution.

18 21. Machinery or equipment that enables a television station to
19 originate and broadcast or to receive and broadcast digital television
20 signals and that was purchased to facilitate compliance with the
21 telecommunications act of 1996 (P.L. 104-104; 110 Stat. 56; 47 United States
22 Code section 336) and the federal communications commission order issued
23 April 21, 1997 (47 Code of Federal Regulations part 73). This paragraph does
24 not exempt any of the following:

25 (a) Repair or replacement parts purchased for the machinery or
26 equipment described in this paragraph.

27 (b) Machinery or equipment purchased to replace machinery or equipment
28 for which an exemption was previously claimed and taken under this paragraph.

29 (c) Any machinery or equipment purchased after the television station
30 has ceased analog broadcasting, or purchased after November 1, 2009,
31 whichever occurs first.

32 22. Qualifying equipment that is purchased from and after June 30, 2004
33 through June 30, 2014 by a qualified business under section 41-1516 for
34 harvesting or the initial processing of qualifying forest products removed
35 from qualifying projects as defined in section 41-1516. To qualify for this
36 deduction, the qualified business at the time of purchase must present its
37 certification approved by the department.

38 23. Machinery, equipment and other tangible personal property used
39 directly in motion picture production by a motion picture production company.
40 To qualify for this deduction, at the time of purchase, the motion picture
41 production company must present to the retailer its certificate that is
42 issued pursuant to section 42-5009, subsection H and that establishes its
43 qualification for the deduction.

44 C. The deductions provided by subsection B of this section do not
45 include sales of:

1 1. Expendable materials. For the purposes of this paragraph,
2 expendable materials do not include any of the categories of tangible
3 personal property specified in subsection B of this section regardless of the
4 cost or useful life of that property.

5 2. Janitorial equipment and hand tools.

6 3. Office equipment, furniture and supplies.

7 4. Tangible personal property used in selling or distributing
8 activities, other than the telecommunications transmissions described in
9 subsection B, paragraph 16 of this section.

10 5. Motor vehicles required to be licensed by this state, except buses
11 or other urban mass transit vehicles specifically exempted pursuant to
12 subsection B, paragraph 11 of this section, without regard to the use of such
13 motor vehicles.

14 6. Shops, buildings, docks, depots and all other materials of whatever
15 kind or character not specifically included as exempt.

16 7. Motors and pumps used in drip irrigation systems.

17 D. In addition to the deductions from the tax base prescribed by
18 subsection A of this section, there shall be deducted from the tax base the
19 gross proceeds of sales or gross income derived from sales of machinery,
20 equipment, materials and other tangible personal property used directly and
21 predominantly to construct a qualified environmental technology
22 manufacturing, producing or processing facility as described in section
23 41-1514.02. This subsection applies for ten full consecutive calendar or
24 fiscal years after the start of initial construction. **THIS SUBSECTION DOES**
25 **NOT APPLY WITH RESPECT TO AN ENVIRONMENTAL TECHNOLOGY MANUFACTURER, PRODUCER**
26 **OR PROCESSOR THAT IS LOCATED IN AN ENTERPRISE ZONE AND CERTIFIED PURSUANT TO**
27 **SECTION 41-1525.02.**

28 E. In computing the tax base, gross proceeds of sales or gross income
29 from retail sales of heavy trucks and trailers does not include any amount
30 attributable to federal excise taxes imposed by 26 United States Code section
31 4051.

32 F. In computing the tax base, gross proceeds of sales or gross income
33 from the sale of use fuel, as defined in section 28-5601, does not include
34 any amount attributable to federal excise taxes imposed by 26 United States
35 Code section 4091.

36 G. If a person is engaged in an occupation or business to which
37 subsection A of this section applies, the person's books shall be kept so as
38 to show separately the gross proceeds of sales of tangible personal property
39 and the gross income from sales of services, and if not so kept the tax shall
40 be imposed on the total of the person's gross proceeds of sales of tangible
41 personal property and gross income from services.

42 H. If a person is engaged in the business of selling tangible personal
43 property at both wholesale and retail, the tax under this section applies
44 only to the gross proceeds of the sales made other than at wholesale if the
45 person's books are kept so as to show separately the gross proceeds of sales

of each class, and if the books are not so kept, the tax under this section applies to the gross proceeds of every sale so made.

I. A person who engages in manufacturing, baling, crating, boxing, barreling, canning, bottling, sacking, preserving, processing or otherwise preparing for sale or commercial use any livestock, agricultural or horticultural product or any other product, article, substance or commodity and who sells the product of such business at retail in this state is deemed, as to such sales, to be engaged in business classified under the retail classification. This subsection does not apply to businesses classified under the:

1. Transporting classification.
2. Utilities classification.
3. Telecommunications classification.
4. Pipeline classification.
5. Private car line classification.
6. Publication classification.
7. Job printing classification.
8. Prime contracting classification.
9. Owner builder sales classification.
10. Restaurant classification.

J. The gross proceeds of sales or gross income derived from the following shall be deducted from the tax base for the retail classification:

1. Sales made directly to the United States government or its departments or agencies by a manufacturer, modifier, assembler or repairer.

2. Sales made directly to a manufacturer, modifier, assembler or repairer if such sales are of any ingredient or component part of products sold directly to the United States government or its departments or agencies by the manufacturer, modifier, assembler or repairer.

3. Overhead materials or other tangible personal property that is used in performing a contract between the United States government and a manufacturer, modifier, assembler or repairer, including property used in performing a subcontract with a government contractor who is a manufacturer, modifier, assembler or repairer, to which title passes to the government under the terms of the contract or subcontract.

4. Sales of overhead materials or other tangible personal property to a manufacturer, modifier, assembler or repairer if the gross proceeds of sales or gross income derived from the property by the manufacturer, modifier, assembler or repairer will be exempt under paragraph 3 of this subsection.

K. There shall be deducted from the tax base fifty per cent of the gross proceeds or gross income from any sale of tangible personal property made directly to the United States government or its departments or agencies, which is not deducted under subsection J of this section.

L. The department shall require every person claiming a deduction provided by subsection J or K of this section to file on forms prescribed by

1 the department at such times as the department directs a sworn statement
2 disclosing the name of the purchaser and the exact amount of sales on which
3 the exclusion or deduction is claimed.

4 M. In computing the tax base, gross proceeds of sales or gross income
5 does not include:

6 1. A manufacturer's cash rebate on the sales price of a motor vehicle
7 if the buyer assigns the buyer's right in the rebate to the retailer.

8 2. The waste tire disposal fee imposed pursuant to section 44-1302.

9 N. There shall be deducted from the tax base the amount received from
10 sales of solar energy devices. The retailer shall register with the
11 department as a solar energy retailer. By registering, the retailer
12 acknowledges that it will make its books and records relating to sales of
13 solar energy devices available to the department for examination.

14 O. In computing the tax base in the case of the sale or transfer of
15 wireless telecommunications equipment as an inducement to a customer to enter
16 into or continue a contract for telecommunications services that are taxable
17 under section 42-5064, gross proceeds of sales or gross income does not
18 include any sales commissions or other compensation received by the retailer
19 as a result of the customer entering into or continuing a contract for the
20 telecommunications services.

21 P. For the purposes of this section, a sale of wireless
22 telecommunications equipment to a person who holds the equipment for sale or
23 transfer to a customer as an inducement to enter into or continue a contract
24 for telecommunications services that are taxable under section 42-5064 is
25 considered to be a sale for resale in the regular course of business.

26 Q. Retail sales of prepaid calling cards or prepaid authorization
27 numbers for telecommunications services, including sales of reauthorization
28 of a prepaid card or authorization number, are subject to tax under this
29 section.

30 R. For the purposes of this section, the diversion of gas from a
31 pipeline by a person engaged in the business of:

32 1. Operating a natural or artificial gas pipeline, for the sole
33 purpose of fueling compressor equipment to pressurize the pipeline, is not a
34 sale of the gas to the operator of the pipeline.

35 2. Converting natural gas into liquefied natural gas, for the sole
36 purpose of fueling compressor equipment used in the conversion process, is
37 not a sale of gas to the operator of the compressor equipment.

38 S. If a seller is entitled to a deduction pursuant to subsection B,
39 paragraph 16, subdivision (b) of this section, the department may require the
40 purchaser to establish that the requirements of subsection B, paragraph 16,
41 subdivision (b) of this section have been satisfied. If the purchaser cannot
42 establish that the requirements of subsection B, paragraph 16, subdivision
43 (b) of this section have been satisfied, the purchaser is liable in an amount
44 equal to any tax, penalty and interest which the seller would have been
45 required to pay under article 1 of this chapter if the seller had not made a

1 deduction pursuant to subsection B, paragraph 16, subdivision (b) of this
2 section. Payment of the amount under this subsection exempts the purchaser
3 from liability for any tax imposed under article 4 of this chapter and
4 related to the tangible personal property purchased. The amount shall be
5 treated as transaction privilege tax to the purchaser and as tax revenues
6 collected from the seller to designate the distribution base pursuant to
7 section 42-5029.

8 T. For the purposes of section 42-5032.01, the department shall
9 separately account for revenues collected under the retail classification
10 from businesses selling tangible personal property at retail:

11 1. On the premises of a multipurpose facility that is owned, leased or
12 operated by the tourism and sports authority pursuant to title 5, chapter 8.

13 2. At professional football contests that are held in a stadium
14 located on the campus of an institution under the jurisdiction of the Arizona
15 board of regents.

16 U. In computing the tax base for the sale of a motor vehicle to a
17 nonresident of this state, if the purchaser's state of residence allows a
18 corresponding use tax exemption to the tax imposed by article 1 of this
19 chapter and the rate of the tax in the purchaser's state of residence is
20 lower than the rate prescribed in article 1 of this chapter or if the
21 purchaser's state of residence does not impose an excise tax, and the
22 nonresident has secured a special ninety day nonresident registration permit
23 for the vehicle as prescribed by sections 28-2154 and 28-2154.01, there shall
24 be deducted from the tax base a portion of the gross proceeds or gross income
25 from the sale so that the amount of transaction privilege tax that is paid in
26 this state is equal to the excise tax that is imposed by the purchaser's
27 state of residence on the nonexempt sale or use of the motor vehicle.

28 V. For the purposes of this section:

29 1. "Aircraft" includes:

30 (a) An airplane flight simulator that is approved by the federal
31 aviation administration for use as a phase II or higher flight simulator
32 under appendix H, 14 Code of Federal Regulations part 121.

33 (b) Tangible personal property that is permanently affixed or attached
34 as a component part of an aircraft that is owned or operated by a
35 certificated or licensed carrier of persons or property.

36 2. "Other accessories and related equipment" includes aircraft
37 accessories and equipment such as ground service equipment that physically
38 contact aircraft at some point during the overall carrier operation.

39 3. "Selling at retail" means a sale for any purpose other than for
40 resale in the regular course of business in the form of tangible personal
41 property, but transfer of possession, lease and rental as used in the
42 definition of sale mean only such transactions as are found on investigation
43 to be in lieu of sales as defined without the words lease or rental.

44 W. For the purposes of subsection J of this section:

1 1. "Assembler" means a person who unites or combines products, wares
2 or articles of manufacture so as to produce a change in form or substance
3 without changing or altering the component parts.

4 2. "Manufacturer" means a person who is principally engaged in the
5 fabrication, production or manufacture of products, wares or articles for use
6 from raw or prepared materials, imparting to those materials new forms,
7 qualities, properties and combinations.

8 3. "Modifier" means a person who reworks, changes or adds to products,
9 wares or articles of manufacture.

10 4. "Overhead materials" means tangible personal property, the gross
11 proceeds of sales or gross income derived from which would otherwise be
12 included in the retail classification, and which are used or consumed in the
13 performance of a contract, the cost of which is charged to an overhead
14 expense account and allocated to various contracts based upon generally
15 accepted accounting principles and consistent with government contract
16 accounting standards.

17 5. "Repairer" means a person who restores or renews products, wares or
18 articles of manufacture.

19 6. "Subcontract" means an agreement between a contractor and any
20 person who is not an employee of the contractor for furnishing of supplies or
21 services that, in whole or in part, are necessary to the performance of one
22 or more government contracts, or under which any portion of the contractor's
23 obligation under one or more government contracts is performed, undertaken or
24 assumed and that includes provisions causing title to overhead materials or
25 other tangible personal property used in the performance of the subcontract
26 to pass to the government or that includes provisions incorporating such
27 title passing clauses in a government contract into the subcontract.

28 Sec. 4. Section 42-5063, Arizona Revised Statutes, is amended to read:

29 42-5063. Utilities classification; definitions

30 A. The utilities classification is comprised of the business of:

31 1. Producing and furnishing or furnishing to consumers natural or
32 artificial gas and water.

33 2. Providing to retail electric customers ancillary services, electric
34 distribution services, electric generation services, electric transmission
35 services and other services related to providing electricity.

36 B. The ~~utility~~ UTILITIES classification does not include:

37 1. Sales of ancillary services, electric distribution services,
38 electric generation services, electric transmission services and other
39 services related to providing electricity, gas or water to a person who
40 resells the services.

41 2. Sales of natural gas or liquefied petroleum gas used to propel a
42 motor vehicle.

43 3. Sales of alternative fuel, as defined in section 1-215, to a used
44 oil fuel burner who has received a permit to burn used oil or used oil fuel
45 under section 49-426 or 49-480.

1 4. Sales of ancillary services, electric distribution services,
2 electric generation services, electric transmission services and other
3 services that are related to providing electricity to a retail electric
4 customer who is located outside this state for use outside this state if the
5 electricity is delivered to a point of sale outside this state.

6 C. The tax base for the utilities classification is the gross proceeds
7 of sales or gross income derived from the business, but the following shall
8 be deducted from the tax base:

9 1. Revenues received by a municipally owned utility in the form of
10 fees charged to persons constructing residential, commercial or industrial
11 developments or connecting residential, commercial or industrial developments
12 to a municipal utility system or systems if the fees are segregated and used
13 only for capital expansion, system enlargement or debt service of the utility
14 system or systems.

15 2. Revenues received by any person or persons owning a utility system
16 in the form of reimbursement or contribution compensation for property and
17 equipment installed to provide utility access to, on or across the land of an
18 actual utility consumer if the property and equipment become the property of
19 the utility. This deduction shall not exceed the value of such property and
20 equipment.

21 3. Gross proceeds of sales or gross income derived from sales to:

22 (a) Qualifying hospitals as defined in section 42-5001.

23 (b) A qualifying health care organization as defined in section
24 42-5001 if the tangible personal property is used by the organization solely
25 to provide health and medical related educational and charitable services.

26 4. The portion of gross proceeds of sales or gross income that is
27 derived from sales to an environmental technology manufacturer, producer or
28 processor as defined in section 41-1514.02 of a utility product and that is
29 used directly in environmental technology manufacturing, producing or
30 processing. This paragraph shall apply for fifteen full consecutive calendar
31 or fiscal years from the date the first paper manufacturing machine is placed
32 in service. In the case of ~~an~~ A QUALIFIED environmental technology
33 manufacturer, producer or processor who does not manufacture paper, the time
34 period shall begin with the date the first manufacturing, processing or
35 production equipment is placed in service. THIS PARAGRAPH DOES NOT APPLY
36 WITH RESPECT TO AN ENVIRONMENTAL TECHNOLOGY MANUFACTURER, PRODUCER OR
37 PROCESSOR THAT IS LOCATED IN AN ENTERPRISE ZONE AND CERTIFIED PURSUANT TO
38 SECTION 41-1525.02.

39 D. For THE purposes of this section:

40 1. "Ancillary services" means those services so designated in federal
41 energy regulatory commission order 888 adopted in 1996 that include the
42 services necessary to support the transmission of electricity from resources
43 to loads while maintaining reliable operation of the transmission system
44 according to good utility practice.

1 2. "Electric distribution service" means distributing electricity to
2 retail electric customers through the use of electric distribution
3 facilities.

4 3. "Electric generation service" means providing electricity for sale
5 to retail electric customers but excluding electric distribution or
6 transmission services.

7 4. "Electric transmission service" means transmitting electricity to
8 retail electric customers or to electric distribution facilities so
9 classified by the federal energy regulatory commission or, to the extent
10 permitted by law, so classified by the Arizona corporation commission.

11 5. "Other services" includes metering, meter reading services, billing
12 and collecting services.

13 6. "Retail electric customer" means a person who purchases electricity
14 for that person's own use, including use in that person's trade or business
15 and not for resale, redistribution or retransmission.

16 Sec. 5. Section 42-5071, Arizona Revised Statutes, is amended to read:
17 42-5071. Personal property rental classification

18 A. The personal property rental classification is comprised of the
19 business of leasing or renting tangible personal property for a
20 consideration. The tax does not apply to:

21 1. Leasing or renting films, tapes or slides used by theaters or
22 movies, which are engaged in business under the amusement classification, or
23 used by television stations or radio stations.

24 2. Activities engaged in by the Arizona exposition and state fair
25 board or county fair commissions in connection with events sponsored by such
26 entities.

27 3. Leasing or renting tangible personal property by a parent
28 corporation to a subsidiary corporation or by a subsidiary corporation to
29 another subsidiary of the same parent corporation if taxes were paid under
30 this chapter on the gross proceeds or gross income accruing from the initial
31 sale of the tangible personal property. For the purposes of this paragraph,
32 "subsidiary" means a corporation of which at least eighty per cent of the
33 voting shares are owned by the parent corporation.

34 4. Operating coin operated washing, drying and dry cleaning machines
35 or coin operated car washing machines at establishments for the use of such
36 machines.

37 5. Leasing or renting tangible personal property for incorporation
38 into or comprising any part of a qualified environmental technology facility
39 as described in section 41-1514.02. This paragraph shall apply for ten full
40 consecutive calendar or fiscal years following the initial lease or rental by
41 each qualified environmental technology manufacturer, producer or processor.
42 THIS PARAGRAPH DOES NOT APPLY WITH RESPECT TO AN ENVIRONMENTAL TECHNOLOGY
43 MANUFACTURER, PRODUCER OR PROCESSOR THAT IS LOCATED IN AN ENTERPRISE ZONE AND
44 CERTIFIED PURSUANT TO SECTION 41-1525.02.

1 6. Leasing or renting aircraft, flight simulators or similar training
2 equipment to students or staff by nonprofit, accredited educational
3 institutions that offer associate or baccalaureate degrees in aviation or
4 aerospace related fields.

5 7. Leasing or renting photographs, transparencies or other creative
6 works used by this state on internet web sites, in magazines or in other
7 publications that encourage tourism.

8 B. The tax base for the personal property rental classification is the
9 gross proceeds of sales or gross income derived from the business, but the
10 gross proceeds of sales or gross income derived from the following shall be
11 deducted from the tax base:

12 1. Reimbursements by the lessee to the lessor of a motor vehicle for
13 payments by the lessor of the applicable fees and taxes imposed by sections
14 28-2003, 28-2352, 28-2402, 28-2481 and 28-5801, title 28, chapter 15,
15 article 2 and article IX, section 11, Constitution of Arizona, to the extent
16 such amounts are separately identified as such fees and taxes and are billed
17 to the lessee.

18 2. Leases or rentals of tangible personal property which, if it had
19 been purchased instead of leased or rented by the lessee, would have been
20 exempt under:

21 (a) Section 42-5061, subsection A, paragraph 8, 9, 12, 13, 25, 29, 50
22 or 55.

23 (b) Section 42-5061, subsection B, except that a lease or rental of
24 new machinery or equipment is not exempt pursuant to:

25 (i) Section 42-5061, subsection B, paragraph 13 if the lease is for
26 less than two years.

27 (ii) Section 42-5061, subsection B, paragraph 22 if the lease is for
28 less than five years.

29 (c) Section 42-5061, subsection J, paragraph 1.

30 (d) Section 42-5061, subsection N.

31 3. Motor vehicle fuel and use fuel that are subject to a tax imposed
32 under title 28, chapter 16, article 1, sales of use fuel to a holder of a
33 valid single trip use fuel tax permit issued under section 28-5739 and sales
34 of aviation fuel that are subject to the tax imposed under section 28-8344.

35 4. Leasing or renting a motor vehicle subject to and upon which the
36 fee has been paid under title 28, chapter 16, article 4.

37 5. Amounts received by a motor vehicle dealer for the first month of a
38 lease payment if the lease and the lease payment for the first month of the
39 lease are transferred to a third party leasing company.

40 C. Sales of tangible personal property to be leased or rented to a
41 person engaged in a business classified under the personal property rental
42 classification are deemed to be resale sales.

43 D. In computing the tax base, the gross proceeds of sales or gross
44 income from the lease or rental of a motor vehicle does not include any

1 amount attributable to the car rental surcharge under section 28-5810 or
2 48-4234.

3 E. Until December 31, 1988, leasing or renting animals for
4 recreational purposes is exempt from the tax imposed by this section.
5 Beginning January 1, 1989, the gross proceeds or gross income from leasing or
6 renting animals for recreational purposes is subject to taxation under this
7 section. Tax liabilities, penalties and interest paid for taxable periods
8 before January 1, 1989 shall not be refunded unless the taxpayer requesting
9 the refund provides proof satisfactory to the department that the monies paid
10 as taxes will be returned to the customer.

11 Sec. 6. Section 42-5075, Arizona Revised Statutes, is amended to read:
12 42-5075. Prime contracting classification; exemptions;
13 definitions

14 A. The prime contracting classification is comprised of the business
15 of prime contracting and dealership of manufactured buildings. Sales for
16 resale to another dealership of manufactured buildings are not subject to
17 tax. Sales for resale do not include sales to a lessor of manufactured
18 buildings. The sale of a used manufactured building is not taxable under
19 this chapter. The proceeds from alteration and repairs to a used
20 manufactured building are taxable under this section.

21 B. The tax base for the prime contracting classification is sixty-five
22 per cent of the gross proceeds of sales or gross income derived from the
23 business. The following amounts shall be deducted from the gross proceeds of
24 sales or gross income before computing the tax base:

25 1. The sales price of land, which shall not exceed the fair market
26 value.

27 2. Sales and installation of groundwater measuring devices required
28 under section 45-604 and groundwater monitoring wells required by law,
29 including monitoring wells installed for acquiring information for a permit
30 required by law.

31 3. The sales price of furniture, furnishings, fixtures, appliances and
32 attachments that are not incorporated as component parts of or attached to a
33 manufactured building or the setup site. The sale of such items may be
34 subject to the taxes imposed by article 1 of this chapter separately and
35 distinctly from the sale of the manufactured building.

36 4. The gross proceeds of sales or gross income received from a
37 contract entered into for the construction, alteration, repair, addition,
38 subtraction, improvement, movement, wrecking or demolition of any building,
39 highway, road, railroad, excavation, manufactured building or other
40 structure, project, development or improvement located in a military reuse
41 zone for providing aviation or aerospace services or for a manufacturer,
42 assembler or fabricator of aviation or aerospace products within an active
43 military reuse zone after the zone is initially established or renewed under
44 section 41-1531. To be eligible to qualify for this deduction, before

1 beginning work under the contract, the prime contractor must have applied for
2 a letter of qualification from the department of revenue.

3 5. The gross proceeds of sales or gross income derived from a contract
4 to construct a qualified environmental technology manufacturing, producing or
5 processing facility, as described in section 41-1514.02, and from subsequent
6 construction and installation contracts that begin within ten years after the
7 start of initial construction. To qualify for this deduction, before
8 beginning work under the contract, the prime contractor must obtain a letter
9 of qualification from the department of revenue. This paragraph shall apply
10 for ten full consecutive calendar or fiscal years after the start of initial
11 construction. THIS PARAGRAPH DOES NOT APPLY WITH RESPECT TO AN ENVIRONMENTAL
12 TECHNOLOGY MANUFACTURER, PRODUCER OR PROCESSOR THAT IS LOCATED IN AN
13 ENTERPRISE ZONE AND CERTIFIED PURSUANT TO SECTION 41-1525.02.

14 6. The gross proceeds of sales or gross income from a contract to
15 provide for one or more of the following actions, or a contract for site
16 preparation, constructing, furnishing or installing machinery, equipment or
17 other tangible personal property, including structures necessary to protect
18 exempt incorporated materials or installed machinery or equipment, and
19 tangible personal property incorporated into the project, to perform one or
20 more of the following actions in response to a release or suspected release
21 of a hazardous substance, pollutant or contaminant from a facility to the
22 environment, unless the release was authorized by a permit issued by a
23 governmental authority:

24 (a) Actions to monitor, assess and evaluate such a release or a
25 suspected release.

26 (b) Excavation, removal and transportation of contaminated soil and
27 its treatment or disposal.

28 (c) Treatment of contaminated soil by vapor extraction, chemical or
29 physical stabilization, soil washing or biological treatment to reduce the
30 concentration, toxicity or mobility of a contaminant.

31 (d) Pumping and treatment or in situ treatment of contaminated
32 groundwater or surface water to reduce the concentration or toxicity of a
33 contaminant.

34 (e) The installation of structures, such as cutoff walls or caps, to
35 contain contaminants present in groundwater or soil and prevent them from
36 reaching a location where they could threaten human health or welfare or the
37 environment.

38 This paragraph does not include asbestos removal or the construction or use
39 of ancillary structures such as maintenance sheds, offices or storage
40 facilities for unattached equipment, pollution control equipment, facilities
41 or other control items required or to be used by a person to prevent or
42 control contamination before it reaches the environment.

43 7. The gross proceeds of sales or gross income that is derived from a
44 contract entered into for the installation, assembly, repair or maintenance
45 of machinery, equipment or other tangible personal property that is deducted

1 from the tax base of the retail classification pursuant to section 42-5061,
2 subsection B, or that is exempt from use tax pursuant to section 42-5159,
3 subsection B, and that does not become a permanent attachment to a building,
4 highway, road, railroad, excavation or manufactured building or other
5 structure, project, development or improvement. If the ownership of the
6 realty is separate from the ownership of the machinery, equipment or tangible
7 personal property, the determination as to permanent attachment shall be made
8 as if the ownership were the same. The deduction provided in this paragraph
9 does not include gross proceeds of sales or gross income from that portion of
10 any contracting activity which consists of the development of, or
11 modification to, real property in order to facilitate the installation,
12 assembly, repair, maintenance or removal of machinery, equipment or other
13 tangible personal property that is deducted from the tax base of the retail
14 classification pursuant to section 42-5061, subsection B or that is exempt
15 from use tax pursuant to section 42-5159, subsection B. For the purposes of
16 this paragraph, "permanent attachment" means at least one of the following:

17 (a) To be incorporated into real property.
18 (b) To become so affixed to real property that it becomes a part of
19 the real property.

20 (c) To be so attached to real property that removal would cause
21 substantial damage to the real property from which it is removed.

22 8. Through December 31, 2009, the gross proceeds of sales or gross
23 income received from a contract for constructing any lake facility
24 development in a commercial enhancement reuse district that is designated
25 pursuant to section 9-499.08 if the prime contractor maintains the following
26 records in a form satisfactory to the department and to the city or town in
27 which the property is located:

28 (a) The certificate of qualification of the lake facility development
29 issued by the city or town pursuant to section 9-499.08, subsection D.

30 (b) All state and local transaction privilege tax returns for the
31 period of time during which the prime contractor received gross proceeds of
32 sales or gross income from a contract to construct a lake facility
33 development in a designated commercial enhancement reuse district, showing
34 the amount exempted from state and local taxation.

35 (c) Any other information that the department considers to be
36 necessary.

37 9. The gross proceeds of sales or gross income attributable to the
38 purchase of machinery, equipment or other tangible personal property that is
39 exempt from or deductible from transaction privilege and use tax under:

40 (a) Section 42-5061, subsection A, paragraph 25 or 29.

41 (b) Section 42-5061, subsection B.

42 (c) Section 42-5159, subsection A, paragraph 13, subdivision (a), (b),
43 (c), (d), (e), (f), (i), (j) or (l).

44 (d) Section 42-5159, subsection B.

10. The gross proceeds of sales or gross income received from a contract for the construction of an environmentally controlled facility for the raising of poultry for the production of eggs and the sorting, cooling and packaging of eggs.

11. The gross proceeds of sales or gross income that is derived from a contract entered into with a person who is engaged in the commercial production of livestock, livestock products or agricultural, horticultural, viticultural or floricultural crops or products in this state for the construction, alteration, repair, improvement, movement, wrecking or demolition or addition to or subtraction from any building, highway, road, excavation, manufactured building or other structure, project, development or improvement used directly and primarily to prevent, monitor, control or reduce air, water or land pollution.

12. The gross proceeds of sales or gross income that is derived from the installation, assembly, repair or maintenance of clean rooms that are deducted from the tax base of the retail classification pursuant to section 42-5061, subsection B, paragraph 17.

13. For taxable periods beginning from and after June 30, 2001, the gross proceeds of sales or gross income derived from a contract entered into for the construction of a residential apartment housing facility that qualifies for a federal housing subsidy for low income persons over sixty-two years of age and that is owned by a nonprofit charitable organization that has qualified under section 501(c)(3) of the internal revenue code.

14. For taxable periods beginning from and after December 31, 1996 and ending before January 1, 2011, the gross proceeds of sales or gross income derived from a contract to provide and install a solar energy device. The contractor shall register with the department as a solar energy contractor. By registering, the contractor acknowledges that it will make its books and records relating to sales of solar energy devices available to the department for examination.

15. The gross proceeds of sales or gross income derived from a contract entered into for the construction of a launch site, as defined in 14 Code of Federal Regulations section 401.5.

16. The gross proceeds of sales or gross income derived from a contract entered into for the construction of a domestic violence shelter that is owned and operated by a nonprofit charitable organization that has qualified under section 501(c)(3) of the internal revenue code.

17. The gross proceeds of sales or gross income derived from contracts to perform postconstruction treatment of real property for termite and general pest control, including wood destroying organisms.

18. The gross proceeds of sales or gross income received from contracts entered into before July 1, 2006 for constructing a state university research infrastructure project if the project has been reviewed by the joint committee on capital review before the university enters into the

1 construction contract for the project. For the purposes of this paragraph,
2 "research infrastructure" has the same meaning prescribed in section 15-1670.

3 19. The gross proceeds of sales or gross income received from a
4 contract for the construction of any building, or other structure, project,
5 development or improvement owned by a qualified business under section
6 41-1516 for harvesting or the initial processing of qualifying forest
7 products removed from qualifying projects as defined in section 41-1516 if
8 actual construction begins before January 1, 2010. To qualify for this
9 deduction, the prime contractor must obtain a letter of qualification from
10 the department of commerce before beginning work under the contract.

11 20. The gross proceeds of sales or gross income received from a
12 contract for the construction of any building or other structure associated
13 with motion picture production in this state. To qualify for the deduction,
14 at the time the contract is entered into the motion picture production
15 company must present to the prime contractor its certificate that is issued
16 pursuant to section 42-5009, subsection H and that establishes its
17 qualification for the deduction.

18 21. Any amount of the gross proceeds of sales or gross income
19 attributable to development fees that are incurred in relation to a contract
20 for construction, development or improvement of real property and that are
21 paid by a prime contractor or subcontractor. For the purposes of this
22 paragraph:

23 (a) The attributable amount shall not exceed the value of the
24 development fees actually imposed.

25 (b) The attributable amount is equal to the total amount of
26 development fees paid by the prime contractor or subcontractor, and the total
27 development fees credited in exchange for the construction of, contribution
28 to or dedication of real property for providing public infrastructure, public
29 safety or other public services necessary to the development. The real
30 property must be the subject of the development fees.

31 (c) "Development fees" means fees imposed to offset capital costs of
32 providing public infrastructure, public safety or other public services to a
33 development and authorized pursuant to section 9-463.05, section 11-1102 or
34 title 48 regardless of the jurisdiction to which the fees are paid.

35 C. Entitlement to the deduction pursuant to subsection B, paragraph 7
36 of this section is subject to the following provisions:

37 1. A prime contractor may establish entitlement to the deduction by
38 both:

39 (a) Marking the invoice for the transaction to indicate that the gross
40 proceeds of sales or gross income derived from the transaction was deducted
41 from the base.

42 (b) Obtaining a certificate executed by the purchaser indicating the
43 name and address of the purchaser, the precise nature of the business of the
44 purchaser, the purpose for which the purchase was made, the necessary facts
45 to establish the deductibility of the property under section 42-5061,

1 subsection B, and a certification that the person executing the certificate
2 is authorized to do so on behalf of the purchaser. The certificate may be
3 disregarded if the prime contractor has reason to believe that the
4 information contained in the certificate is not accurate or complete.

5 2. A person who does not comply with paragraph 1 of this subsection
6 may establish entitlement to the deduction by presenting facts necessary to
7 support the entitlement, but the burden of proof is on that person.

8 3. The department may prescribe a form for the certificate described
9 in paragraph 1, subdivision (b) of this subsection. The department may also
10 adopt rules that describe the transactions with respect to which a person is
11 not entitled to rely solely on the information contained in the certificate
12 provided in paragraph 1, subdivision (b) of this subsection but must instead
13 obtain such additional information as required in order to be entitled to the
14 deduction.

15 4. If a prime contractor is entitled to a deduction by complying with
16 paragraph 1 of this subsection, the department may require the purchaser who
17 caused the execution of the certificate to establish the accuracy and
18 completeness of the information required to be contained in the certificate
19 which would entitle the prime contractor to the deduction. If the purchaser
20 cannot establish the accuracy and completeness of the information, the
21 purchaser is liable in an amount equal to any tax, penalty and interest which
22 the prime contractor would have been required to pay under article 1 of this
23 chapter if the prime contractor had not complied with paragraph 1 of this
24 subsection. Payment of the amount under this paragraph exempts the purchaser
25 from liability for any tax imposed under article 4 of this chapter. The
26 amount shall be treated as a transaction privilege tax to the purchaser and
27 as tax revenues collected from the prime contractor in order to designate the
28 distribution base for purposes of section 42-5029.

29 D. Subcontractors or others who perform services in respect to any
30 improvement, building, highway, road, railroad, excavation, manufactured
31 building or other structure, project, development or improvement are not
32 subject to tax if they can demonstrate that the job was within the control of
33 a prime contractor or contractors or a dealership of manufactured buildings
34 and that the prime contractor or dealership is liable for the tax on the
35 gross income, gross proceeds of sales or gross receipts attributable to the
36 job and from which the subcontractors or others were paid.

37 E. Amounts received by a contractor for a project are excluded from
38 the contractor's gross proceeds of sales or gross income derived from the
39 business if the person who hired the contractor executes and provides a
40 certificate to the contractor stating that the person providing the
41 certificate is a prime contractor and is liable for the tax under article 1
42 of this chapter. The department shall prescribe the form of the certificate.
43 If the contractor has reason to believe that the information contained on the
44 certificate is erroneous or incomplete, the department may disregard the
45 certificate. If the person who provides the certificate is not liable for

1 the tax as a prime contractor, that person is nevertheless deemed to be the
2 prime contractor in lieu of the contractor and is subject to the tax under
3 this section on the gross receipts or gross proceeds received by the
4 contractor.

5 F. Every person engaging or continuing in this state in the business
6 of prime contracting or dealership of manufactured buildings shall present to
7 the purchaser of such prime contracting or manufactured building a written
8 receipt of the gross income or gross proceeds of sales from such activity and
9 shall separately state the taxes to be paid pursuant to this section.

10 G. For the purposes of section 42-5032.01, the department shall
11 separately account for revenues collected under the prime contracting
12 classification from any prime contractor engaged in the preparation or
13 construction of a multipurpose facility, and related infrastructure, that is
14 owned, operated or leased by the tourism and sports authority pursuant to
15 title 5, chapter 8.

16 H. The gross proceeds of sales or gross income derived from a contract
17 for lawn maintenance services are not subject to tax under this section if
18 the contract does not include landscaping activities. Lawn maintenance
19 service is a service pursuant to section 42-5061, subsection A, paragraph 1,
20 and includes lawn mowing and edging, weeding, repairing sprinkler heads or
21 drip irrigation heads, seasonal replacement of flowers, refreshing gravel,
22 lawn de-thatching, seeding winter lawns, leaf and debris collection and
23 removal, tree or shrub pruning or clipping, garden and gravel raking and
24 applying pesticides, as defined in section 3-361, and fertilizer materials,
25 as defined in section 3-262.

26 I. The gross proceeds of sales or gross income derived from
27 landscaping activities are subject to tax under this section. Landscaping
28 includes installing lawns, grading or leveling ground, installing gravel or
29 boulders, planting trees and other plants, felling trees, removing or
30 mulching tree stumps, removing other imbedded plants, building or modifying
31 irrigation berms, repairing sprinkler or watering systems, installing
32 railroad ties and installing underground sprinkler or watering systems.

33 J. The portion of gross proceeds of sales or gross income attributable
34 to the actual direct costs of providing architectural or engineering services
35 that are incorporated in a contract is not subject to tax under this section.
36 For the purposes of this subsection, "direct costs" means the portion of the
37 actual costs that are directly expended in providing architectural or
38 engineering services.

39 K. Operating a landfill or a solid waste disposal facility is not
40 subject to taxation under this section, including filling, compacting and
41 creating vehicle access to and from cell sites within the landfill.
42 Constructing roads to a landfill or solid waste disposal facility and
43 constructing cells within a landfill or solid waste disposal facility may be
44 deemed prime contracting under this section.

45 L. The following apply to manufactured buildings:

1 1. For sales in this state where the dealership of manufactured
2 buildings contracts to deliver the building to a setup site or to perform the
3 setup in this state, the taxable situs is the setup site.

4 2. For sales in this state where the dealership of manufactured
5 buildings does not contract to deliver the building to a setup site or does
6 not perform the setup, the taxable situs is the location of the dealership
7 where the building is delivered to the buyer.

8 3. For sales in this state where the dealership of manufactured
9 buildings contracts to deliver the building to a setup site that is outside
10 this state, the situs is outside this state and the transaction is excluded
11 from tax.

12 M. The gross proceeds of sales or gross income attributable to a
13 separate, written design phase services contract or professional services
14 contract, executed before modification begins, is not subject to tax under
15 this section, regardless of whether the services are provided sequential to
16 or concurrent with prime contracting activities that are subject to tax under
17 this section. This subsection does not include the gross proceeds of sales
18 or gross income attributable to construction phase services. For the
19 purposes of this subsection:

20 1. "Construction phase services" means services for the execution and
21 completion of any modification, including the following:

22 (a) Administration or supervision of any modification performed on the
23 project, including team management and coordination, scheduling, cost
24 controls, submittal process management, field management, safety program,
25 close-out process and warranty period services.

26 (b) Administration or supervision of any modification performed
27 pursuant to a punch list. For the purposes of this subdivision, "punch list"
28 means minor items of modification work performed after substantial completion
29 and before final completion of the project.

30 (c) Administration or supervision of any modification performed
31 pursuant to change orders. For the purposes of this subdivision, "change
32 order" means a written instrument issued after execution of a contract for
33 modification work, providing for all of the following:

34 (i) The scope of a change in the modification work, contract for
35 modification work or other contract documents.

36 (ii) The amount of an adjustment, if any, to the guaranteed maximum
37 price as set in the contract for modification work. For the purposes of this
38 item, "guaranteed maximum price" means the amount guaranteed to be the
39 maximum amount due to a prime contractor for the performance of all
40 modification work for the project.

41 (iii) The extent of an adjustment, if any, to the contract time of
42 performance set forth in the contract.

43 (d) Administration or supervision of any modification performed
44 pursuant to change directives. For the purposes of this subdivision, "change
45 directive" means a written order directing a change in modification work

1 before agreement on an adjustment of the guaranteed maximum price or contract
2 time.

3 (e) Inspection to determine the dates of substantial completion or
4 final completion.

5 (f) Preparation of any manuals, warranties, as-built drawings, spares
6 or other items the prime contractor must furnish pursuant to the contract for
7 modification work. For the purposes of this subdivision, "as-built drawing"
8 means a drawing that indicates field changes made to adapt to field
9 conditions, field changes resulting from change orders or buried and
10 concealed installation of piping, conduit and utility services.

11 (g) Preparation of status reports after modification work has begun
12 detailing the progress of work performed, including preparation of any of the
13 following:

14 (i) Master schedule updates.

15 (ii) Modification work cash flow projection updates.

16 (iii) Site reports made on a periodic basis.

17 (iv) Identification of discrepancies, conflicts or ambiguities in
18 modification work documents that require resolution.

19 (v) Identification of any health and safety issues that have arisen in
20 connection with the modification work.

21 (h) Preparation of daily logs of modification work, including
22 documentation of personnel, weather conditions and on-site occurrences.

23 (i) Preparation of any submittals or shop drawings used by the prime
24 contractor to illustrate details of the modification work performed.

25 (j) Administration or supervision of any other activities for which a
26 prime contractor receives a certificate for payment or certificate for final
27 payment based on the progress of modification work performed on the project.

28 2. "Design phase services" means services for developing and
29 completing a design for a project that are not construction phase services,
30 including the following:

31 (a) Evaluating surveys, reports, test results or any other information
32 on-site conditions for the project, including physical characteristics, legal
33 limitations and utility locations for the site.

34 (b) Evaluating any criteria or programming objectives for the project
35 to ascertain requirements for the project, such as physical requirements
36 affecting cost or projected utilization of the project.

37 (c) Preparing drawings and specifications for architectural program
38 documents, schematic design documents, design development documents,
39 modification work documents or documents that identify the scope of or
40 materials for the project.

41 (d) Preparing an initial schedule for the project, excluding the
42 preparation of updates to the master schedule after modification work has
43 begun.

(e) Preparing preliminary estimates of costs of modification work before completion of the final design of the project, including an estimate or schedule of values for any of the following:

(i) Labor, materials, machinery and equipment, tools, water, heat, utilities, transportation and other facilities and services used in the execution and completion of modification work, regardless of whether they are temporary or permanent or whether they are incorporated in the modifications.

(ii) The cost of labor and materials to be furnished by the owner of the real property.

(iii) The cost of any equipment of the owner of the real property to be assigned by the owner to the prime contractor.

(iv) The cost of any labor for installation of equipment separately provided by the owner of the real property that has been designed, specified, selected or specifically provided for in any design document for the project.

(v) Any fee paid by the owner of the real property to the prime contractor pursuant to the contract for modification work.

(vi) Any bond and insurance premiums.

(vii) Any applicable taxes.

(viii) Any contingency fees for the prime contractor that may be used before final completion of the project.

(f) Reviewing and evaluating cost estimates and project documents to prepare recommendations on site use, site improvements, selection of materials, building systems and equipment, modification feasibility, availability of materials and labor, local modification activity as related to schedules and time requirements for modification work.

(g) Preparing the plan and procedures for selection of subcontractors, including any prequalification of subcontractor candidates.

3. "Professional services" means architect services, assayer services, engineer services, geologist services, land surveying services or landscape architect services that are within the scope of those services as provided in title 32, chapter 1 and for which gross proceeds of sales or gross income has not otherwise been deducted under subsection J of this section.

N. Notwithstanding subsection 0, paragraph 8 of this section, a person owning real property who enters into a contract for sale of the real property, who is responsible to the new owner of the property for modifications made to the property in the period subsequent to the transfer of title and who receives a consideration for the modifications is considered a prime contractor solely for purposes of taxing the gross proceeds of sale or gross income received for the modifications made subsequent to the transfer of title. The original owner's gross proceeds of sale or gross income received for the modifications shall be determined according to the following methodology:

1. If any part of the contract for sale of the property specifies amounts to be paid to the original owner for the modifications to be made in

1 the period subsequent to the transfer of title, the amounts are included in
2 the original owner's gross proceeds of sale or gross income under this
3 section. Proceeds from the sale of the property that are received after
4 transfer of title and that are unrelated to the modifications made subsequent
5 to the transfer of title are not considered gross proceeds of sale or gross
6 income from the modifications.

7 2. If the original owner enters into an agreement separate from the
8 contract for sale of the real property providing for amounts to be paid to
9 the original owner for the modifications to be made in the period subsequent
10 to the transfer of title to the property, the amounts are included in the
11 original owner's gross proceeds of sale or gross income received for the
12 modifications made subsequent to the transfer of title.

13 3. If the original owner is responsible to the new owner for
14 modifications made to the property in the period subsequent to the transfer
15 of title and derives any gross proceeds of sale or gross income from the
16 project subsequent to the transfer of title other than a delayed disbursement
17 from escrow unrelated to the modifications, it is presumed that the amounts
18 are received for the modifications made subsequent to the transfer of title
19 unless the contrary is established by the owner through its books, records
20 and papers kept in the regular course of business.

21 4. The tax base of the original owner is computed in the same manner
22 as a prime contractor under this section.

23 0. For the purposes of this section:

24 1. "Contracting" means engaging in business as a contractor.

25 2. "Contractor" is synonymous with the term "builder" and means any
26 person or organization that undertakes to or offers to undertake to, or
27 purports to have the capacity to undertake to, or submits a bid to, or does
28 personally or by or through others, modify any building, highway, road,
29 railroad, excavation, manufactured building or other structure, project,
30 development or improvement, or to do any part of such a project, including
31 the erection of scaffolding or other structure or works in connection with
32 such a project, and includes subcontractors and specialty contractors. For
33 all purposes of taxation or deduction, this definition shall govern without
34 regard to whether or not such contractor is acting in fulfillment of a
35 contract.

36 3. "Dealership of manufactured buildings" means a dealer who either:

37 (a) Is licensed pursuant to title 41, chapter 16 and who sells
38 manufactured buildings to the final consumer.

39 (b) Supervises, performs or coordinates the excavation and completion
40 of site improvements, setup or moving of a manufactured building including
41 the contracting, if any, with any subcontractor or specialty contractor for
42 the completion of the contract.

43 4. "Manufactured building" means a manufactured home, mobile home or
44 factory-built building, as defined in section 41-2142.

1 5. "Modification" means construction, alteration, repair, addition,
2 subtraction, improvement, movement, wreckage or demolition.

3 6. "Modify" means to construct, alter, repair, add to, subtract from,
4 improve, move, wreck or demolish.

5 7. "Prime contracting" means engaging in business as a prime
6 contractor.

7 8. "Prime contractor" means a contractor who supervises, performs or
8 coordinates the modification of any building, highway, road, railroad,
9 excavation, manufactured building or other structure, project, development or
10 improvement including the contracting, if any, with any subcontractors or
11 specialty contractors and who is responsible for the completion of the
12 contract. Except as provided in subsections E and ~~M~~ N of this section, a
13 person who owns real property, who engages one or more contractors to modify
14 that real property and who does not itself modify that real property is not a
15 prime contractor within the meaning of this paragraph regardless of the
16 existence of a contract for sale or the subsequent sale of that real
17 property.

18 9. "Sale of a used manufactured building" does not include a lease of
19 a used manufactured building.

20 Sec. 7. Section 42-5159, Arizona Revised Statutes, is amended to read:

21 42-5159. Exemptions

22 A. The tax levied by this article does not apply to the storage, use
23 or consumption in this state of the following described tangible personal
24 property:

25 1. Tangible personal property sold in this state, the gross receipts
26 from the sale of which are included in the measure of the tax imposed by
27 articles 1 and 2 of this chapter.

28 2. Tangible personal property the sale or use of which has already
29 been subjected to an excise tax at a rate equal to or exceeding the tax
30 imposed by this article under the laws of another state of the United States.
31 If the excise tax imposed by the other state is at a rate less than the tax
32 imposed by this article, the tax imposed by this article is reduced by the
33 amount of the tax already imposed by the other state.

34 3. Tangible personal property, the storage, use or consumption of
35 which the constitution or laws of the United States prohibit this state from
36 taxing or to the extent that the rate or imposition of tax is
37 unconstitutional under the laws of the United States.

38 4. Tangible personal property which directly enters into and becomes
39 an ingredient or component part of any manufactured, fabricated or processed
40 article, substance or commodity for sale in the regular course of business.

41 5. Motor vehicle fuel and use fuel, the sales, distribution or use of
42 which in this state is subject to the tax imposed under title 28, chapter 16,
43 article 1, use fuel which is sold to or used by a person holding a valid
44 single trip use fuel tax permit issued under section 28-5739, aviation fuel,
45 the sales, distribution or use of which in this state is subject to the tax

imposed under section 28-8344, and jet fuel, the sales, distribution or use of which in this state is subject to the tax imposed under article 8 of this chapter.

6. Tangible personal property brought into this state by an individual who was a nonresident at the time the property was purchased for storage, use or consumption by the individual if the first actual use or consumption of the property was outside this state, unless the property is used in conducting a business in this state.

7. Purchases of implants used as growth promotants and injectable medicines, not already exempt under paragraph 16 of this subsection, for livestock and poultry owned by, or in possession of, persons who are engaged in producing livestock, poultry, or livestock or poultry products, or who are engaged in feeding livestock or poultry commercially. For the purposes of this paragraph, "poultry" includes ratites.

8. Livestock, poultry, supplies, feed, salts, vitamins and other additives for use or consumption in the businesses of farming, ranching and feeding livestock or poultry, not including fertilizers, herbicides and insecticides. For the purposes of this paragraph, "poultry" includes ratites.

9. Seeds, seedlings, roots, bulbs, cuttings and other propagative material for use in commercially producing agricultural, horticultural, viticultural or floricultural crops in this state.

10. Tangible personal property not exceeding two hundred dollars in any one month purchased by an individual at retail outside the continental limits of the United States for the individual's own personal use and enjoyment.

11. Advertising supplements which are intended for sale with newspapers published in this state and which have already been subjected to an excise tax under the laws of another state in the United States which equals or exceeds the tax imposed by this article.

12. Materials that are purchased by or for publicly funded libraries including school district libraries, charter school libraries, community college libraries, state university libraries or federal, state, county or municipal libraries for use by the public as follows:

(a) Printed or photographic materials, beginning August 7, 1985.

(b) Electronic or digital media materials, beginning July 17, 1994.

13. Tangible personal property purchased by:

(a) A hospital organized and operated exclusively for charitable purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

(b) A hospital operated by this state or a political subdivision of this state.

(c) A licensed nursing care institution or a licensed residential care institution or a residential care facility operated in conjunction with a licensed nursing care institution or a licensed kidney dialysis center, which

1 provides medical services, nursing services or health related services and is
2 not used or held for profit.

3 (d) A qualifying health care organization, as defined in section
4 42-5001, if the tangible personal property is used by the organization solely
5 to provide health and medical related educational and charitable services.

6 (e) A qualifying health care organization as defined in section
7 42-5001 if the organization is dedicated to providing educational,
8 therapeutic, rehabilitative and family medical education training for blind,
9 visually impaired and multihandicapped children from the time of birth to age
10 twenty-one.

11 (f) A nonprofit charitable organization that has qualified under
12 section 501(c)(3) of the United States internal revenue code and that engages
13 in and uses such property exclusively in programs for mentally or physically
14 handicapped persons if the programs are exclusively for training, job
15 placement, rehabilitation or testing.

16 (g) A person that is subject to tax under article 1 of this chapter by
17 reason of being engaged in business classified under the prime contracting
18 classification under section 42-5075, or a subcontractor working under the
19 control of a prime contractor, if the tangible personal property is any of
20 the following:

21 (i) Incorporated or fabricated by the contractor into a structure,
22 project, development or improvement in fulfillment of a contract.

23 (ii) Used in environmental response or remediation activities under
24 section 42-5075, subsection B, paragraph 6.

25 (iii) Incorporated or fabricated by the person into any lake facility
26 development in a commercial enhancement reuse district under conditions
27 prescribed for the deduction allowed by section 42-5075, subsection B,
28 paragraph 8.

29 (h) A nonprofit charitable organization that has qualified under
30 section 501(c)(3) of the internal revenue code if the property is purchased
31 from the parent or an affiliate organization that is located outside this
32 state.

33 (i) A qualifying community health center as defined in section
34 42-5001.

35 (j) A nonprofit charitable organization that has qualified under
36 section 501(c)(3) of the internal revenue code and that regularly serves
37 meals to the needy and indigent on a continuing basis at no cost.

38 (k) A person engaged in business under the transient lodging
39 classification if the property is a personal hygiene item or articles used by
40 human beings for food, drink or condiment, except alcoholic beverages, which
41 are furnished without additional charge to and intended to be consumed by the
42 transient during the transient's occupancy.

43 (l) For taxable periods beginning from and after June 30, 2001, a
44 nonprofit charitable organization that has qualified under section 501(c)(3)
45 of the internal revenue code and that provides residential apartment housing

1 for low income persons over sixty-two years of age in a facility that
2 qualifies for a federal housing subsidy, if the tangible personal property is
3 used by the organization solely to provide residential apartment housing for
4 low income persons over sixty-two years of age in a facility that qualifies
5 for a federal housing subsidy.

6 14. Commodities, as defined by title 7 United States Code section 2,
7 that are consigned for resale in a warehouse in this state in or from which
8 the commodity is deliverable on a contract for future delivery subject to the
9 rules of a commodity market regulated by the United States commodity futures
10 trading commission.

11 15. Tangible personal property sold by:

12 (a) Any nonprofit organization organized and operated exclusively for
13 charitable purposes and recognized by the United States internal revenue
14 service under section 501(c)(3) of the internal revenue code.

15 (b) A nonprofit organization that is exempt from taxation under
16 section 501(c)(3) or 501(c)(6) of the internal revenue code if the
17 organization is associated with a major league baseball team or a national
18 touring professional golfing association and no part of the organization's
19 net earnings inures to the benefit of any private shareholder or individual.

20 (c) A nonprofit organization that is exempt from taxation under
21 section 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7) or 501(c)(8) of the
22 internal revenue code if the organization sponsors or operates a rodeo
23 featuring primarily farm and ranch animals and no part of the organization's
24 net earnings inures to the benefit of any private shareholder or individual.

25 16. Drugs and medical oxygen, including delivery hose, mask or tent,
26 regulator and tank, on the prescription of a member of the medical, dental or
27 veterinarian profession who is licensed by law to administer such substances.

28 17. Prosthetic appliances, as defined in section 23-501, prescribed or
29 recommended by a person who is licensed, registered or otherwise
30 professionally credentialed as a physician, dentist, podiatrist,
31 chiropractor, naturopath, homeopath, nurse or optometrist.

32 18. Prescription eyeglasses and contact lenses.

33 19. Insulin, insulin syringes and glucose test strips.

34 20. Hearing aids as defined in section 36-1901.

35 21. Durable medical equipment which has a centers for medicare and
36 medicaid services common procedure code, is designated reimbursable by
37 medicare, is prescribed by a person who is licensed under title 32, chapter
38 7, 13, 17 or 29, can withstand repeated use, is primarily and customarily
39 used to serve a medical purpose, is generally not useful to a person in the
40 absence of illness or injury and is appropriate for use in the home.

41 22. Food, as provided in and subject to the conditions of article 3 of
42 this chapter and section 42-5074.

43 23. Items purchased with United States department of agriculture food
44 stamp coupons issued under the food stamp act of 1977 (P.L. 95-113; 91 Stat.
45 958) or food instruments issued under section 17 of the child nutrition act

1 (P.L. 95-627; 92 Stat. 3603; P.L. 99-661, section 4302; 42 United States Code
2 section 1786).

3 24. Food and drink provided without monetary charge by a taxpayer which
4 is subject to section 42-5074 to its employees for their own consumption on
5 the premises during the employees' hours of employment.

6 25. Tangible personal property that is used or consumed in a business
7 subject to section 42-5074 for human food, drink or condiment, whether
8 simple, mixed or compounded.

9 26. Food, drink or condiment and accessory tangible personal property
10 that are acquired for use by or provided to a school district or charter
11 school if they are to be either served or prepared and served to persons for
12 consumption on the premises of a public school in a school district during
13 school hours.

14 27. Lottery tickets or shares purchased pursuant to title 5, chapter 5,
15 article 1.

16 28. Textbooks, sold by a bookstore, that are required by any state
17 university or community college.

18 29. Magazines, other periodicals or other publications produced by this
19 state to encourage tourist travel.

20 30. Paper machine clothing, such as forming fabrics and dryer felts,
21 purchased by a paper manufacturer and directly used or consumed in paper
22 manufacturing.

23 31. Coal, petroleum, coke, natural gas, virgin fuel oil and electricity
24 purchased by a qualified environmental technology manufacturer, producer or
25 processor as defined in section 41-1514.02 and directly used or consumed in
26 the generation or provision of on-site power or energy solely for
27 environmental technology manufacturing, producing or processing or
28 environmental protection. This paragraph shall apply for fifteen full
29 consecutive calendar or fiscal years from the date the first paper
30 manufacturing machine is placed in service. In the case of an environmental
31 technology manufacturer, producer or processor who does not manufacture
32 paper, the time period shall begin with the date the first manufacturing,
33 processing or production equipment is placed in service. **THIS PARAGRAPH DOES**
34 **NOT APPLY WITH RESPECT TO AN ENVIRONMENTAL TECHNOLOGY MANUFACTURER, PRODUCER**
35 **OR PROCESSOR THAT IS LOCATED IN AN ENTERPRISE ZONE AND CERTIFIED PURSUANT TO**
36 **SECTION 41-1525.02.**

37 32. Motor vehicles that are removed from inventory by a motor vehicle
38 dealer as defined in section 28-4301 and that are provided to:

39 (a) Charitable or educational institutions that are exempt from
40 taxation under section 501(c)(3) of the internal revenue code.

41 (b) Public educational institutions.

42 (c) State universities or affiliated organizations of a state
43 university if no part of the organization's net earnings inures to the
44 benefit of any private shareholder or individual.

1 33. Natural gas or liquefied petroleum gas used to propel a motor
2 vehicle.

3 34. Machinery, equipment, technology or related supplies that are only
4 useful to assist a person who is physically disabled as defined in section
5 46-191, has a developmental disability as defined in section 36-551 or has a
6 head injury as defined in section 41-3201 to be more independent and
7 functional.

8 35. Liquid, solid or gaseous chemicals used in manufacturing,
9 processing, fabricating, mining, refining, metallurgical operations, research
10 and development and, beginning on January 1, 1999, printing, if using or
11 consuming the chemicals, alone or as part of an integrated system of
12 chemicals, involves direct contact with the materials from which the product
13 is produced for the purpose of causing or permitting a chemical or physical
14 change to occur in the materials as part of the production process. This
15 paragraph does not include chemicals that are used or consumed in activities
16 such as packaging, storage or transportation but does not affect any
17 exemption for such chemicals that is otherwise provided by this section. For
18 the purposes of this paragraph, "printing" means a commercial printing
19 operation and includes job printing, engraving, embossing, copying and
20 bookbinding.

21 36. Food, drink and condiment purchased for consumption within the
22 premises of any prison, jail or other institution under the jurisdiction of
23 the state department of corrections, the department of public safety, the
24 department of juvenile corrections or a county sheriff.

25 37. A motor vehicle and any repair and replacement parts and tangible
26 personal property becoming a part of such motor vehicle sold to a motor
27 carrier who is subject to a fee prescribed in title 28, chapter 16, article 4
28 and who is engaged in the business of leasing or renting such property.

29 38. Tangible personal property which is or directly enters into and
30 becomes an ingredient or component part of cards used as prescription plan
31 identification cards.

32 39. Overhead materials or other tangible personal property that is used
33 in performing a contract between the United States government and a
34 manufacturer, modifier, assembler or repairer, including property used in
35 performing a subcontract with a government contractor who is a manufacturer,
36 modifier, assembler or repairer, to which title passes to the government
37 under the terms of the contract or subcontract. For the purposes of this
38 paragraph:

39 (a) "Overhead materials" means tangible personal property, the gross
40 proceeds of sales or gross income derived from which would otherwise be
41 included in the retail classification, and which are used or consumed in the
42 performance of a contract, the cost of which is charged to an overhead
43 expense account and allocated to various contracts based upon generally
44 accepted accounting principles and consistent with government contract
45 accounting standards.

1 (b) "Subcontract" means an agreement between a contractor and any
2 person who is not an employee of the contractor for furnishing of supplies or
3 services that, in whole or in part, are necessary to the performance of one
4 or more government contracts, or under which any portion of the contractor's
5 obligation under one or more government contracts is performed, undertaken or
6 assumed, and that includes provisions causing title to overhead materials or
7 other tangible personal property used in the performance of the subcontract
8 to pass to the government or that includes provisions incorporating such
9 title passing clauses in a government contract into the subcontract.

10 40. Through December 31, 1994, tangible personal property sold pursuant
11 to a personal property liquidation transaction, as defined in section
12 42-5061. From and after December 31, 1994, tangible personal property sold
13 pursuant to a personal property liquidation transaction, as defined in
14 section 42-5061, if the gross proceeds of the sales were included in the
15 measure of the tax imposed by article 1 of this chapter or if the personal
16 property liquidation was a casual activity or transaction.

17 41. Wireless telecommunications equipment that is held for sale or
18 transfer to a customer as an inducement to enter into or continue a contract
19 for telecommunications services that are taxable under section 42-5064.

20 42. Alternative fuel, as defined in section 1-215, purchased by a used
21 oil fuel burner who has received a permit to burn used oil or used oil fuel
22 under section 49-426 or 49-480.

23 43. Tangible personal property purchased by a commercial airline and
24 consisting of food, beverages and condiments and accessories used for serving
25 the food and beverages, if those items are to be provided without additional
26 charge to passengers for consumption in flight. For the purposes of this
27 paragraph, "commercial airline" means a person holding a federal certificate
28 of public convenience and necessity or foreign air carrier permit for air
29 transportation to transport persons, property or United States mail in
30 intrastate, interstate or foreign commerce.

31 44. Alternative fuel vehicles if the vehicle was manufactured as a
32 diesel fuel vehicle and converted to operate on alternative fuel and
33 equipment that is installed in a conventional diesel fuel motor vehicle to
34 convert the vehicle to operate on an alternative fuel, as defined in section
35 1-215.

36 45. Gas diverted from a pipeline, by a person engaged in the business
37 of:

38 (a) Operating a natural or artificial gas pipeline, and used or
39 consumed for the sole purpose of fueling compressor equipment that
40 pressurizes the pipeline.

41 (b) Converting natural gas into liquefied natural gas, and used or
42 consumed for the sole purpose of fueling compressor equipment used in the
43 conversion process.

44 46. Tangible personal property that is excluded, exempt or deductible
45 from transaction privilege tax pursuant to section 42-5063.

47. Tangible personal property purchased to be incorporated or installed as part of environmental response or remediation activities under section 42-5075, subsection B, paragraph 6.

48. Tangible personal property sold by a nonprofit organization that is exempt from taxation under section 501(c)(6) of the internal revenue code if the organization produces, organizes or promotes cultural or civic related festivals or events and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

49. Prepared food, drink or condiment donated by a restaurant as classified in section 42-5074, subsection A to a nonprofit charitable organization that has qualified under section 501(c)(3) of the internal revenue code and that regularly serves meals to the needy and indigent on a continuing basis at no cost.

50. Application services that are designed to assess or test student learning or to promote curriculum design or enhancement purchased by or for any school district, charter school, community college or state university. For the purposes of this paragraph:

(a) "Application services" means software applications provided remotely using hypertext transfer protocol or another network protocol.

(b) "Curriculum design or enhancement" means planning, implementing or reporting on courses of study, lessons, assignments or other learning activities.

B. In addition to the exemptions allowed by subsection A of this section, the following categories of tangible personal property are also exempt:

1. Machinery, or equipment, used directly in manufacturing, processing, fabricating, job printing, refining or metallurgical operations. The terms "manufacturing", "processing", "fabricating", "job printing", "refining" and "metallurgical" as used in this paragraph refer to and include those operations commonly understood within their ordinary meaning. "Metallurgical operations" includes leaching, milling, precipitating, smelting and refining.

2. Machinery, or equipment, used directly in the process of extracting ores or minerals from the earth for commercial purposes, including equipment required to prepare the materials for extraction and handling, loading or transporting such extracted material to the surface. "Mining" includes underground, surface and open pit operations for extracting ores and minerals.

3. Tangible personal property sold to persons engaged in business classified under the telecommunications classification under section 42-5064 and consisting of central office switching equipment, switchboards, private branch exchange equipment, microwave radio equipment and carrier equipment including optical fiber, coaxial cable and other transmission media which are components of carrier systems.

1 4. Machinery, equipment or transmission lines used directly in
2 producing or transmitting electrical power, but not including distribution.
3 Transformers and control equipment used at transmission substation sites
4 constitute equipment used in producing or transmitting electrical power.

5 5. Neat animals, horses, asses, sheep, ratites, swine or goats used or
6 to be used as breeding or production stock, including sales of breedings or
7 ownership shares in such animals used for breeding or production.

8 6. Pipes or valves four inches in diameter or larger used to transport
9 oil, natural gas, artificial gas, water or coal slurry, including compressor
10 units, regulators, machinery and equipment, fittings, seals and any other
11 part that is used in operating the pipes or valves.

12 7. Aircraft, navigational and communication instruments and other
13 accessories and related equipment sold to:

14 (a) A person holding a federal certificate of public convenience and
15 necessity, a supplemental air carrier certificate under federal aviation
16 regulations (14 Code of Federal Regulations part 121) or a foreign air
17 carrier permit for air transportation for use as or in conjunction with or
18 becoming a part of aircraft to be used to transport persons, property or
19 United States mail in intrastate, interstate or foreign commerce.

20 (b) Any foreign government for use by such government outside of this
21 state, or sold to persons who are not residents of this state and who will
22 not use such property in this state other than in removing such property from
23 this state.

24 8. Machinery, tools, equipment and related supplies used or consumed
25 directly in repairing, remodeling or maintaining aircraft, aircraft engines
26 or aircraft component parts by or on behalf of a certificated or licensed
27 carrier of persons or property.

28 9. Rolling stock, rails, ties and signal control equipment used
29 directly to transport persons or property.

30 10. Machinery or equipment used directly to drill for oil or gas or
31 used directly in the process of extracting oil or gas from the earth for
32 commercial purposes.

33 11. Buses or other urban mass transit vehicles which are used directly
34 to transport persons or property for hire or pursuant to a governmentally
35 adopted and controlled urban mass transportation program and which are sold
36 to bus companies holding a federal certificate of convenience and necessity
37 or operated by any city, town or other governmental entity or by any person
38 contracting with such governmental entity as part of a governmentally adopted
39 and controlled program to provide urban mass transportation.

40 12. Groundwater measuring devices required under section 45-604.

41 13. New machinery and equipment consisting of tractors, tractor-drawn
42 implements, self-powered implements, machinery and equipment necessary for
43 extracting milk, and machinery and equipment necessary for cooling milk and
44 livestock, and drip irrigation lines not already exempt under paragraph 6 of
45 this subsection and that are used for commercial production of agricultural,

horticultural, viticultural and floricultural crops and products in this state. For the purposes of this paragraph:

(a) "New machinery and equipment" means machinery or equipment which has never been sold at retail except pursuant to leases or rentals which do not total two years or more.

(b) "Self-powered implements" includes machinery and equipment that are electric-powered.

14. Machinery or equipment used in research and development. For the purposes of this paragraph, "research and development" means basic and applied research in the sciences and engineering, and designing, developing or testing prototypes, processes or new products, including research and development of computer software that is embedded in or an integral part of the prototype or new product or that is required for machinery or equipment otherwise exempt under this section to function effectively. Research and development do not include manufacturing quality control, routine consumer product testing, market research, sales promotion, sales service, research in social sciences or psychology, computer software research that is not included in the definition of research and development, or other nontechnological activities or technical services.

15. Machinery and equipment that are purchased by or on behalf of the owners of a soundstage complex and primarily used for motion picture, multimedia or interactive video production in the complex. This paragraph applies only if the initial construction of the soundstage complex begins after June 30, 1996 and before January 1, 2002 and the machinery and equipment are purchased before the expiration of five years after the start of initial construction. For the purposes of this paragraph:

(a) "Motion picture, multimedia or interactive video production" includes products for theatrical and television release, educational presentations, electronic retailing, documentaries, music videos, industrial films, CD-ROM, video game production, commercial advertising and television episode production and other genres that are introduced through developing technology.

(b) "Soundstage complex" means a facility of multiple stages including production offices, construction shops and related areas, prop and costume shops, storage areas, parking for production vehicles and areas that are leased to businesses that complement the production needs and orientation of the overall facility.

16. Tangible personal property that is used by either of the following to receive, store, convert, produce, generate, decode, encode, control or transmit telecommunications information:

(a) Any direct broadcast satellite television or data transmission service that operates pursuant to 47 Code of Federal Regulations part 25.

(b) Any satellite television or data transmission facility, if both of the following conditions are met:

(i) Over two-thirds of the transmissions, measured in megabytes, transmitted by the facility during the test period were transmitted to or on behalf of one or more direct broadcast satellite television or data transmission services that operate pursuant to 47 Code of Federal Regulations part 25.

(ii) Over two-thirds of the transmissions, measured in megabytes, transmitted by or on behalf of those direct broadcast television or data transmission services during the test period were transmitted by the facility to or on behalf of those services.

For the purposes of subdivision (b) of this paragraph, "test period" means the three hundred sixty-five day period beginning on the later of the date on which the tangible personal property is purchased or the date on which the direct broadcast satellite television or data transmission service first transmits information to its customers.

17. Clean rooms that are used for manufacturing, processing, fabrication or research and development, as defined in paragraph 14 of this subsection, of semiconductor products. For the purposes of this paragraph, "clean room" means all property that comprises or creates an environment where humidity, temperature, particulate matter and contamination are precisely controlled within specified parameters, without regard to whether the property is actually contained within that environment or whether any of the property is affixed to or incorporated into real property. Clean room:

(a) Includes the integrated systems, fixtures, piping, movable partitions, lighting and all property that is necessary or adapted to reduce contamination or to control airflow, temperature, humidity, chemical purity or other environmental conditions or manufacturing tolerances, as well as the production machinery and equipment operating in conjunction with the clean room environment.

(b) Does not include the building or other permanent, nonremovable component of the building that houses the clean room environment.

18. Machinery and equipment that are used directly in the feeding of poultry, the environmental control of housing for poultry, the movement of eggs within a production and packaging facility or the sorting or cooling of eggs. This exemption does not apply to vehicles used for transporting eggs.

19. Machinery or equipment, including related structural components, that is employed in connection with manufacturing, processing, fabricating, job printing, refining, mining, natural gas pipelines, metallurgical operations, telecommunications, producing or transmitting electricity or research and development and that is used directly to meet or exceed rules or regulations adopted by the federal energy regulatory commission, the United States environmental protection agency, the United States nuclear regulatory commission, the Arizona department of environmental quality or a political subdivision of this state to prevent, monitor, control or reduce land, water or air pollution.

20. Machinery and equipment that are used in the commercial production of livestock, livestock products or agricultural, horticultural, viticultural or floricultural crops or products in this state and that are used directly and primarily to prevent, monitor, control or reduce air, water or land pollution.

21. Machinery or equipment that enables a television station to originate and broadcast or to receive and broadcast digital television signals and that was purchased to facilitate compliance with the telecommunications act of 1996 (P.L. 104-104; 110 Stat. 56; 47 United States Code section 336) and the federal communications commission order issued April 21, 1997 (47 Code of Federal Regulations part 73). This paragraph does not exempt any of the following:

(a) Repair or replacement parts purchased for the machinery or equipment described in this paragraph.

(b) Machinery or equipment purchased to replace machinery or equipment for which an exemption was previously claimed and taken under this paragraph.

(c) Any machinery or equipment purchased after the television station has ceased analog broadcasting, or purchased after November 1, 2009, whichever occurs first.

22. Qualifying equipment that is purchased from and after June 30, 2004 through June 30, 2014 by a qualified business under section 41-1516 for harvesting or the initial processing of qualifying forest products removed from qualifying projects as defined in section 41-1516. To qualify for this exemption, the qualified business must obtain and present its certification from the department of commerce at the time of purchase.

23. Machinery, equipment and other tangible personal property used directly in motion picture production by a motion picture production company. To qualify for this exemption, at the time of purchase, the motion picture production company must present to the retailer its certificate that is issued pursuant to section 42-5009, subsection H and that establishes its qualification for the exemption.

C. The exemptions provided by subsection B of this section do not include:

1. Expendable materials. For the purposes of this paragraph, expendable materials do not include any of the categories of tangible personal property specified in subsection B of this section regardless of the cost or useful life of that property.

2. Janitorial equipment and hand tools.

3. Office equipment, furniture and supplies.

4. Tangible personal property used in selling or distributing activities, other than the telecommunications transmissions described in subsection B, paragraph 16 of this section.

5. Motor vehicles required to be licensed by this state, except buses or other urban mass transit vehicles specifically exempted pursuant to

1 subsection B, paragraph 11 of this section, without regard to the use of such
2 motor vehicles.

3 6. Shops, buildings, docks, depots and all other materials of whatever
4 kind or character not specifically included as exempt.

5 7. Motors and pumps used in drip irrigation systems.

6 D. The following shall be deducted in computing the purchase price of
7 electricity by a retail electric customer from a utility business:

8 1. Revenues received from sales of ancillary services, electric
9 distribution services, electric generation services, electric transmission
10 services and other services related to providing electricity to a retail
11 electric customer who is located outside this state for use outside this
12 state if the electricity is delivered to a point of sale outside this state.

13 2. Revenues received from providing electricity, including ancillary
14 services, electric distribution services, electric generation services,
15 electric transmission services and other services related to providing
16 electricity with respect to which the transaction privilege tax imposed under
17 section 42-5063 has been paid.

18 E. The tax levied by this article does not apply to:

19 1. The storage, use or consumption in Arizona of machinery, equipment,
20 materials or other tangible personal property if used directly and
21 predominantly to construct a qualified environmental technology
22 manufacturing, producing or processing facility, as described in section
23 41-1514.02. This paragraph applies for ten full consecutive calendar or
24 fiscal years after the start of initial construction. THIS PARAGRAPH DOES
25 NOT APPLY WITH RESPECT TO AN ENVIRONMENTAL TECHNOLOGY MANUFACTURER, PRODUCER
26 OR PROCESSOR THAT IS LOCATED IN AN ENTERPRISE ZONE AND CERTIFIED PURSUANT TO
27 SECTION 41-1525.02.

28 2. The purchase of electricity by a qualified environmental technology
29 manufacturer, producer or processor as defined in section 41-1514.02 that is
30 used directly in environmental technology manufacturing, producing or
31 processing. This paragraph shall apply for fifteen full consecutive calendar
32 or fiscal years from the date the first paper manufacturing machine is placed
33 in service. In the case of an environmental technology manufacturer,
34 producer or processor who does not manufacture paper, the time period shall
35 begin with the date the first manufacturing, processing or production
36 equipment is placed in service. THIS PARAGRAPH DOES NOT APPLY WITH RESPECT
37 TO AN ENVIRONMENTAL TECHNOLOGY MANUFACTURER, PRODUCER OR PROCESSOR THAT IS
38 LOCATED IN AN ENTERPRISE ZONE AND CERTIFIED PURSUANT TO SECTION 41-1525.02.

39 3. The purchase of solar energy devices from a retailer that is
40 registered with the department as a solar energy retailer or a solar energy
41 contractor.

42 F. The following shall be deducted in computing the purchase price of
43 electricity by a retail electric customer from a utility business:

44 1. Fees charged by a municipally owned utility to persons constructing
45 residential, commercial or industrial developments or connecting residential,

1 commercial or industrial developments to a municipal utility system or
2 systems if the fees are segregated and used only for capital expansion,
3 system enlargement or debt service of the utility system or systems.

4 2. Reimbursement or contribution compensation to any person or persons
5 owning a utility system for property and equipment installed to provide
6 utility access to, on or across the land of an actual utility consumer if the
7 property and equipment become the property of the utility. This deduction
8 shall not exceed the value of such property and equipment.

9 G. For the purposes of subsection B of this section:

10 1. "Aircraft" includes:

11 (a) An airplane flight simulator that is approved by the federal
12 aviation administration for use as a phase II or higher flight simulator
13 under appendix H, 14 Code of Federal Regulations part 121.

14 (b) Tangible personal property that is permanently affixed or attached
15 as a component part of an aircraft that is owned or operated by a
16 certificated or licensed carrier of persons or property.

17 2. "Other accessories and related equipment" includes aircraft
18 accessories and equipment such as ground service equipment that physically
19 contact aircraft at some point during the overall carrier operation.

20 H. For the purposes of subsection D of this section, "ancillary
21 services", "electric distribution service", "electric generation service",
22 "electric transmission service" and "other services" have the same meanings
23 prescribed in section 42-5063.

24 Sec. 8. Section 42-12006, Arizona Revised Statutes, is amended to
25 read:

26 42-12006. Class six property

27 For purposes of taxation, class six is established consisting of:

28 1. Noncommercial historic property as defined in section 42-12101 and
29 valued at full cash value.

30 2. Real and personal property that is located within the area of a
31 foreign trade zone or subzone established under 19 United States Code section
32 81 and title 44, chapter 18, that is activated for foreign trade zone use by
33 the district director of the United States customs service pursuant to
34 19 Code of Federal Regulations section 146.6 and that is valued at full cash
35 value. Property that is classified under this paragraph shall not thereafter
36 be classified under paragraph 7 of this section.

37 3. Real and personal property and improvements that are located in a
38 military reuse zone that is established under title 41, chapter 10, article 3
39 and that is devoted to providing aviation or aerospace services or to
40 manufacturing, assembling or fabricating aviation or aerospace products,
41 valued at full cash value and subject to the following terms and conditions:

42 (a) Property may not be classified under this paragraph for more than
43 five tax years.

(b) Any new addition or improvement to property already classified under this paragraph qualifies separately for classification under this paragraph for not more than five tax years.

(c) If a military reuse zone is terminated, the property in that zone that was previously classified under this paragraph shall be reclassified as prescribed by this article.

(d) Property that is classified under this paragraph shall not thereafter be classified under paragraph 4 or 7 of this section.

4. Real and personal property and improvements that are located in an enterprise zone, that are owned or used by a small manufacturing, ~~or~~ A small commercial ~~printer~~ PRINTING business OR AN ENVIRONMENTAL TECHNOLOGY MANUFACTURER, PRODUCER OR PROCESSOR that is certified by the department of commerce pursuant to section 41-1525.01 OR 41-1525.02 and that are valued at full cash value, subject to the following terms and conditions:

(a) Property may not be classified under this paragraph for more than five tax years.

(b) Property that is classified under this paragraph shall not thereafter be classified under paragraph 3, 5 or 7 of this section.

5. Real and personal property and improvements or a portion of such property comprising a qualified environmental technology manufacturing, producing or processing facility as described in section 41-1514.02 OR A GREEN MANUFACTURING BUSINESS CERTIFIED PURSUANT TO SECTION 41-1514.03, valued at full cash value and subject to the following terms and conditions:

(a) Property shall be classified under this paragraph for twenty tax years from the date placed in service.

(b) Any addition or improvement to property already classified under this paragraph qualifies separately for classification under this subdivision for an additional twenty tax years from the date placed in service.

(c) After revocation of certification under section 41-1514.02 OR 41-1514.03, property that was previously classified under this paragraph shall be reclassified as prescribed by this article.

(d) Property that is classified under this paragraph shall not thereafter be classified under paragraph 4 OR 7 of this section.

6. That portion of real and personal property that is used on or after January 1, 1999 specifically and solely for remediation of the environment by an action that has been determined to be reasonable and necessary to respond to the release or threatened release of a hazardous substance by the department of environmental quality pursuant to section 49-282.06 or pursuant to its corrective action authority under rules adopted pursuant to section 49-922, subsection B, paragraph 4 or by the United States environmental protection agency pursuant to the national contingency plan (40 Code of Federal Regulations part 300) and that is valued at full cash value. Property that is not being used specifically and solely for the remediation objectives described in this paragraph shall not be classified under this paragraph.

1 For the purposes of this paragraph, "remediation of the environment" means
2 one or more of the following actions:

3 (a) Monitoring, assessing or evaluating the release or threatened
4 release.

5 (b) Excavating, removing, transporting, treating and disposing of
6 contaminated soil.

7 (c) Pumping and treating contaminated water.

8 (d) Treatment, containment or removal of contaminants in groundwater
9 or soil.

10 7. Real and personal property and improvements constructed or
11 installed from and after December 31, 2004 through December 31, 2010 and
12 owned by a qualified business under section 41-1516 and used solely for the
13 purpose of harvesting, transporting or the initial processing of qualifying
14 forest products removed from qualifying projects as defined in section
15 41-1516. The classification under this paragraph is subject to the following
16 terms and conditions:

17 (a) Property may be initially classified under this paragraph only in
18 valuation years 2005 through 2010.

19 (b) Property may not be classified under this paragraph for more than
20 five years.

21 (c) Any new addition or improvement, constructed or installed from and
22 after December 31, 2004 through December 31, 2010, to property already
23 classified under this paragraph qualifies separately for classification and
24 assessment under this paragraph for not more than five years.

25 (d) Property that is classified under this paragraph shall not
26 thereafter be classified under paragraph 2, 3, 4 or 5 of this section.

27 8. Real and personal property and improvements to the property that
28 are used specifically and solely to manufacture from and after December 31,
29 2006 through December 31, 2016 biodiesel fuel that is one hundred per cent
30 biodiesel and its by-products and that are valued at full cash value. This
31 paragraph applies only to the portion of property that is used specifically
32 for manufacturing and processing one hundred per cent biodiesel fuel, or its
33 related by-products, from raw feedstock obtained from off-site sources,
34 including necessary on-site storage facilities that are intrinsically
35 associated with the manufacturing process. Any other commercial or industrial
36 use disqualifies the entire property from classification under this
37 paragraph.

38 Sec. 9. Repeal

39 Section 43-222, Arizona Revised Statutes, is repealed.

40 Sec. 10. Title 43, chapter 2, article 2, Arizona Revised Statutes, is
41 amended by adding a new section 43-222, to read:

42 43-222. Income tax credit review schedule

43 THE JOINT LEGISLATIVE INCOME TAX CREDIT REVIEW COMMITTEE SHALL REVIEW
44 THE FOLLOWING INCOME TAX CREDITS:

1 1. FOR YEARS ENDING IN 0 AND 5, SECTIONS 43-1075, 43-1075.01,
2 43-1079.01, 43-1087, 43-1088, 43-1090.01, 43-1163, 43-1163.01, 43-1167.01,
3 43-1175 AND 43-1182.

4 2. FOR YEARS ENDING IN 1 AND 6, SECTIONS 43-1074.02, 43-1083, 43-1085,
5 43-1164 AND 43-1183.

6 3. FOR YEARS ENDING IN 2 AND 7, SECTIONS 43-1073, 43-1079, 43-1080,
7 43-1086, 43-1089, 43-1089.01, 43-1089.02, 43-1090, 43-1167, 43-1169, 43-1176
8 AND 43-1181.

9 4. FOR YEARS ENDING IN 3 AND 8, SECTIONS 43-1074.01, 43-1081, 43-1168,
10 43-1170 AND 43-1178.

11 5. FOR YEARS ENDING IN 4 AND 9, SECTIONS 43-1074.03, 43-1076,
12 43-1081.01, 43-1084, 43-1161.01, 43-1162 AND 43-1170.01.

13 Sec. 11. Section 43-1074, Arizona Revised Statutes, is amended to
14 read:

15 43-1074. Credit for increased employment in enterprise zones;
16 definitions

17 A. A credit is allowed against the taxes imposed by this title for net
18 increases in qualified employment positions of residents of this state by a
19 business located in an enterprise zone established under title 41, chapter
20 10, article 2, except employment positions at a zone location where more than
21 ten per cent of the business conducted at the location consists of retail
22 sales of tangible personal property, measured by either the number of
23 employees assigned to retail sales or the square footage of the facility used
24 for retail sales activities at the location in the zone. Retail sales and
25 retail sales activities do not include:

26 1. Food and beverage for consumption on the premises solely by
27 employees and occasional guests of employees at the location.

28 2. Promotional products not available for sale and displaying the
29 company logo or trademark.

30 3. Products sold to company employees.

31 B. Subject to subsection E of this section, the amount of the credit
32 is equal to:

33 1. One-fourth of the taxable wages paid to an employee in a qualified
34 employment position, not to exceed five hundred dollars, in the first year or
35 partial year of employment.

36 2. One-third of the taxable wages paid to an employee in a qualified
37 employment position, not to exceed one thousand dollars per qualified
38 employment position, in the second year of continuous employment.

39 3. One-half of the taxable wages paid to an employee in a qualified
40 employment position, not to exceed one thousand five hundred dollars per
41 qualified employment position, in the third year of continuous employment.

42 C. To qualify for a credit under this section:

43 1. All of the employees with respect to whom a credit is claimed must
44 reside in this state.

1 2. Thirty-five per cent of the employees with respect to whom a credit
2 is claimed for the first year of employment must reside on the date of
3 employment in an enterprise zone that is located in the same county in which
4 the business is located. If an employee for whom a credit was allowed in the
5 first year of employment leaves employment during the second or third year,
6 the taxpayer may substitute another employee who meets the requirements of
7 paragraph 3 of this subsection and who was hired during the same year as the
8 original employee. If the original employee was counted toward the residency
9 requirement under this paragraph, the substitute employee must also have
10 resided in a zone at the time the substitute was hired.

11 3. A qualified employment position must meet all of the following
12 requirements:

13 (a) The position must be a minimum of one thousand seven hundred fifty
14 hours per year of full-time and permanent employment.

15 (b) The job duties must be performed primarily at the zone locations
16 of the business. If an eligible employee in a qualified employment position
17 is transferred or assigned to work in the taxpayer's workplace at a different
18 location that is also located in an enterprise zone and qualifies as a zone
19 location, it may be considered to be continuous employment if it continues to
20 meet all qualified employment position requirements.

21 (c) The employment must include health insurance coverage for the
22 employee for which the employer pays at least fifty per cent of the premium
23 or membership cost. If the taxpayer is self-insured, the taxpayer must pay
24 at least fifty per cent of a predetermined fixed cost per employee for an
25 insurance program that is payable whether or not the employee has filed
26 claims.

27 (d) The employer must pay compensation at least equal to the wage
28 offer by county as computed annually by the department of economic security
29 research administration division.

30 (e) The employee must have been employed for at least ninety days
31 during the first taxable year. An employee who is hired during the last
32 ninety days of the taxable year shall be considered a new employee during the
33 next taxable year. A qualified employment position that is filled during the
34 last ninety days of the taxable year is considered to be a new qualified
35 employment position for the next taxable year.

36 (f) The employee must not have been previously employed by the
37 taxpayer within twelve months before the current date of hire.

38 D. A credit is allowed for employment in the second and third year
39 only for qualified employment positions for which a credit was allowed and
40 claimed by the taxpayer on the original first and second year tax returns.
41 For the purposes of this subsection, the requirement to claim the credit on
42 the original tax return does not apply to qualified employment positions
43 created before January 1, 2002 and ~~were~~ certified to the department of
44 commerce.

1 E. The net increase in the number of qualified employment positions is
2 the lesser of the total number of filled qualified employment positions
3 created in the zone during the tax year or the difference between the average
4 number of full-time employees in the zone in the current tax year and the
5 average number of full-time employees during the immediately preceding
6 taxable year. The net increase in the number of qualified employment
7 positions computed under this subsection shall not exceed two hundred
8 qualified employment positions per taxpayer each year.

9 F. A taxpayer who claims a credit under section 43-1074.03, 43-1077 or
10 43-1079 shall not claim a credit under this section with respect to the same
11 ~~employees~~ EMPLOYMENT POSITION.

12 G. If the allowable tax credit exceeds the income taxes otherwise due
13 on the claimant's income, or if there are no state income taxes due on the
14 claimant's income, the amount of the claim not used as an offset against
15 income taxes may be carried forward as a tax credit against subsequent
16 taxable years' income tax liability, not to exceed five taxable years,
17 provided the business remains in an enterprise zone.

18 H. Co-owners of a business, including partners in a partnership and
19 shareholders of an S corporation, as defined in section 1361 of the internal
20 revenue code, may each claim only the pro rata share of the credit allowed
21 under this section based on the ownership interest. The total of the credits
22 allowed all such owners of the business may not exceed the amount that would
23 have been allowed for a sole owner of the business.

24 I. If a person purchases a business in a zone or changes ownership
25 through reorganization, stock purchase or merger, the new taxpayer may claim
26 first year credits only for one or more qualified employment positions that
27 it created and filled with an eligible employee after the purchase or
28 reorganization was complete. If a person purchases a taxpayer that had
29 qualified for first or second year credits or changes ownership through
30 reorganization, stock purchase or merger, the new taxpayer may claim the
31 second or third year credits if it meets other eligibility requirements of
32 this section. Credits for which a taxpayer qualified before the changes
33 described in this subsection are terminated and lost at the time the changes
34 are implemented.

35 J. A failure to timely report and certify to the department of
36 commerce and the department of revenue the information prescribed by section
37 41-1525, subsection B, paragraphs 1, 2 and 3 and in the manner prescribed by
38 section 41-1525, subsection C, disqualifies the taxpayer from the credit
39 under this section. The department of revenue shall require written evidence
40 of the timely report to the department of commerce.

41 K. The termination of an enterprise zone does not affect the credit
42 under this section with respect to:

43 1. Taxpayers who have employees in the second and third years of
44 employment in qualified employment positions under subsections A, B and C of

1 this section if the business remains in the location that was in the
2 enterprise zone.

3 2. Amounts carried forward into subsequent taxable years under
4 subsection G of this section.

5 L. The department may adopt rules necessary for the administration of
6 this section.

7 M. For the purposes of this section:

8 1. "Assigned to retail" means working more than twenty-five per cent
9 of an employee's time in one or more retail sales activities.

10 2. "Retail sales" means the sale of tangible personal property to an
11 ultimate consumer.

12 3. "Retail sales activities" means all activities persons operating a
13 retail business normally engage in, including taking orders, filling orders,
14 billing orders, receiving and processing payment and shipping, stocking and
15 delivering tangible personal property to the ultimate consumer, except drop
16 shipments by a company acting on behalf of an unrelated company that has made
17 a sale to a final consumer.

18 4. "Zone location" means a single parcel or contiguous parcels of
19 owned or leased land, the structures and personal property contained on the
20 land or any part of the structures occupied by a taxpayer.

21 Sec. 12. Title 43, chapter 10, article 5, Arizona Revised Statutes, is
22 amended by adding section 43-1074.03, to read:

23 43-1074.03. Credit for increased employment by green
24 manufacturing businesses; definitions

25 A. A CREDIT IS ALLOWED AGAINST THE TAXES IMPOSED BY THIS TITLE FOR NET
26 INCREASES IN QUALIFIED EMPLOYMENT POSITIONS OF RESIDENTS OF THIS STATE BY A
27 GREEN MANUFACTURING BUSINESS QUALIFIED PURSUANT TO SECTION 41-1514.04, EXCEPT
28 EMPLOYMENT POSITIONS AT A LOCATION WHERE MORE THAN TEN PER CENT OF THE
29 BUSINESS CONSISTS OF RETAIL SALES OF TANGIBLE PERSONAL PROPERTY, MEASURED BY
30 EITHER THE NUMBER OF EMPLOYEES ASSIGNED TO RETAIL SALES OR THE SQUARE FOOTAGE
31 OF THE FACILITY USED FOR RETAIL SALES ACTIVITIES AT THE LOCATION. RETAIL
32 SALES AND RETAIL SALES ACTIVITIES DO NOT INCLUDE:

33 1. FOOD AND BEVERAGE FOR CONSUMPTION ON THE PREMISES SOLELY BY
34 EMPLOYEES AND OCCASIONAL GUESTS OF EMPLOYEES AT THE LOCATION.

35 2. PROMOTIONAL PRODUCTS NOT AVAILABLE FOR SALE AND DISPLAYING THE
36 COMPANY LOGO OR TRADEMARK.

37 3. PRODUCTS SOLD TO COMPANY EMPLOYEES.

38 B. SUBJECT TO SUBSECTION E OF THIS SECTION, THE AMOUNT OF THE CREDIT
39 IS EQUAL TO:

40 1. ONE-FOURTH OF THE TAXABLE WAGES PAID TO AN EMPLOYEE IN A QUALIFIED
41 EMPLOYMENT POSITION, NOT TO EXCEED FIVE HUNDRED DOLLARS, IN THE FIRST YEAR OR
42 PARTIAL YEAR OF EMPLOYMENT.

43 2. ONE-THIRD OF THE TAXABLE WAGES PAID TO AN EMPLOYEE IN A QUALIFIED
44 EMPLOYMENT POSITION, NOT TO EXCEED ONE THOUSAND DOLLARS PER QUALIFIED
45 EMPLOYMENT POSITION, IN THE SECOND YEAR OF CONTINUOUS EMPLOYMENT.

1 3. ONE-HALF OF THE TAXABLE WAGES PAID TO AN EMPLOYEE IN A QUALIFIED
2 EMPLOYMENT POSITION, NOT TO EXCEED ONE THOUSAND FIVE HUNDRED DOLLARS PER
3 QUALIFIED EMPLOYMENT POSITION, IN THE THIRD YEAR OF CONTINUOUS EMPLOYMENT.

4 C. TO QUALIFY FOR A CREDIT UNDER THIS SECTION:

5 1. ALL OF THE EMPLOYEES WITH RESPECT TO WHOM A CREDIT IS CLAIMED MUST
6 RESIDE IN THIS STATE.

7 2. A QUALIFIED EMPLOYMENT POSITION MUST MEET ALL OF THE FOLLOWING
8 REQUIREMENTS:

9 (a) THE POSITION MUST BE A MINIMUM OF ONE THOUSAND SEVEN HUNDRED FIFTY
10 HOURS PER YEAR OF FULL-TIME AND PERMANENT EMPLOYMENT.

11 (b) THE JOB DUTIES MUST BE PERFORMED PRIMARILY AT THE LOCATION OF THE
12 BUSINESS. IF AN ELIGIBLE EMPLOYEE IN A QUALIFIED EMPLOYMENT POSITION IS
13 TRANSFERRED OR ASSIGNED TO WORK IN THE TAXPAYER'S WORKPLACE AT A DIFFERENT
14 LOCATION, IT MAY BE CONSIDERED TO BE CONTINUOUS EMPLOYMENT IF IT CONTINUES TO
15 MEET ALL QUALIFIED EMPLOYMENT POSITION REQUIREMENTS.

16 (c) THE EMPLOYMENT MUST INCLUDE HEALTH INSURANCE COVERAGE FOR THE
17 EMPLOYEE FOR WHICH THE EMPLOYER PAYS AT LEAST FIFTY PER CENT OF THE PREMIUM
18 OR MEMBERSHIP COST. IF THE TAXPAYER IS SELF-INSURED, THE TAXPAYER MUST PAY
19 AT LEAST FIFTY PER CENT OF A PREDETERMINED FIXED COST PER EMPLOYEE FOR AN
20 INSURANCE PROGRAM THAT IS PAYABLE WHETHER OR NOT THE EMPLOYEE HAS FILED
21 CLAIMS.

22 (d) THE EMPLOYER MUST PAY COMPENSATION AT LEAST EQUAL TO THE WAGE
23 OFFER BY COUNTY AS COMPUTED ANNUALLY BY THE DEPARTMENT OF ECONOMIC SECURITY
24 RESEARCH ADMINISTRATION DIVISION.

25 (e) THE EMPLOYEE MUST HAVE BEEN EMPLOYED FOR AT LEAST NINETY DAYS
26 DURING THE FIRST TAXABLE YEAR. AN EMPLOYEE WHO IS HIRED DURING THE LAST
27 NINETY DAYS OF THE TAXABLE YEAR SHALL BE CONSIDERED A NEW EMPLOYEE DURING THE
28 NEXT TAXABLE YEAR. A QUALIFIED EMPLOYMENT POSITION THAT IS FILLED DURING THE
29 LAST NINETY DAYS OF THE TAXABLE YEAR IS CONSIDERED TO BE A NEW QUALIFIED
30 EMPLOYMENT POSITION FOR THE NEXT TAXABLE YEAR.

31 (f) THE EMPLOYEE MUST NOT HAVE BEEN PREVIOUSLY EMPLOYED BY THE
32 TAXPAYER WITHIN TWELVE MONTHS BEFORE THE CURRENT DATE OF HIRE.

33 D. A CREDIT IS ALLOWED FOR EMPLOYMENT IN THE SECOND AND THIRD YEAR
34 ONLY FOR QUALIFIED EMPLOYMENT POSITIONS FOR WHICH A CREDIT WAS ALLOWED AND
35 CLAIMED BY THE TAXPAYER ON THE ORIGINAL FIRST AND SECOND YEAR TAX RETURNS.

36 E. THE NET INCREASE IN THE NUMBER OF QUALIFIED EMPLOYMENT POSITIONS IS
37 THE LESSER OF THE TOTAL NUMBER OF FILLED QUALIFIED EMPLOYMENT POSITIONS
38 CREATED DURING THE TAX YEAR OR THE DIFFERENCE BETWEEN THE AVERAGE NUMBER OF
39 FULL-TIME EMPLOYEES IN THE CURRENT TAX YEAR AND THE AVERAGE NUMBER OF
40 FULL-TIME EMPLOYEES DURING THE IMMEDIATELY PRECEDING TAXABLE YEAR. THE NET
41 INCREASE IN THE NUMBER OF QUALIFIED EMPLOYMENT POSITIONS COMPUTED UNDER THIS
42 SUBSECTION SHALL NOT EXCEED TWO HUNDRED QUALIFIED EMPLOYMENT POSITIONS PER
43 TAXPAYER EACH YEAR.

1 F. A TAXPAYER WHO CLAIMS A CREDIT UNDER SECTION 43-1074 OR 43-1079
2 SHALL NOT CLAIM A CREDIT UNDER THIS SECTION WITH RESPECT TO THE SAME
3 EMPLOYMENT POSITION.

4 G. IF THE ALLOWABLE TAX CREDIT EXCEEDS THE INCOME TAXES OTHERWISE DUE
5 ON THE CLAIMANT'S INCOME, OR IF THERE ARE NO STATE INCOME TAXES DUE ON THE
6 CLAIMANT'S INCOME, THE AMOUNT OF THE CLAIM NOT USED AS AN OFFSET AGAINST
7 INCOME TAXES MAY BE CARRIED FORWARD AS A TAX CREDIT AGAINST SUBSEQUENT
8 TAXABLE YEARS' INCOME TAX LIABILITY, NOT TO EXCEED FIVE TAXABLE YEARS.

9 H. CO-OWNERS OF A BUSINESS, INCLUDING PARTNERS IN A PARTNERSHIP AND
10 SHAREHOLDERS OF AN S CORPORATION, AS DEFINED IN SECTION 1361 OF THE INTERNAL
11 REVENUE CODE, MAY EACH CLAIM ONLY THE PRO RATA SHARE OF THE CREDIT ALLOWED
12 UNDER THIS SECTION BASED ON THE OWNERSHIP INTEREST. THE TOTAL OF THE CREDITS
13 ALLOWED ALL SUCH OWNERS OF THE BUSINESS MAY NOT EXCEED THE AMOUNT THAT WOULD
14 HAVE BEEN ALLOWED FOR A SOLE OWNER OF THE BUSINESS.

15 I. IF A PERSON PURCHASES A BUSINESS OR CHANGES OWNERSHIP THROUGH
16 REORGANIZATION, STOCK PURCHASE OR MERGER, THE NEW TAXPAYER MAY CLAIM FIRST
17 YEAR CREDITS ONLY FOR ONE OR MORE QUALIFIED EMPLOYMENT POSITIONS THAT IT
18 CREATED AND FILLED WITH AN ELIGIBLE EMPLOYEE AFTER THE PURCHASE OR
19 REORGANIZATION WAS COMPLETE. IF A PERSON PURCHASES A TAXPAYER THAT HAD
20 QUALIFIED FOR FIRST OR SECOND YEAR CREDITS OR CHANGES OWNERSHIP THROUGH
21 REORGANIZATION, STOCK PURCHASE OR MERGER, THE NEW TAXPAYER MAY CLAIM THE
22 SECOND OR THIRD YEAR CREDITS IF THE TAXPAYER MEETS OTHER ELIGIBILITY
23 REQUIREMENTS OF THIS SECTION. CREDITS FOR WHICH A TAXPAYER QUALIFIED BEFORE
24 THE CHANGES DESCRIBED IN THIS SUBSECTION ARE TERMINATED AND LOST AT THE TIME
25 THE CHANGES ARE IMPLEMENTED.

26 J. A FAILURE TO TIMELY REPORT AND CERTIFY TO THE DEPARTMENT OF
27 COMMERCE AND THE DEPARTMENT OF REVENUE THE INFORMATION PRESCRIBED BY SECTION
28 41-1514.04, SUBSECTION B, PARAGRAPHS 1, 2 AND 3, AND IN THE MANNER PRESCRIBED
29 BY SECTION 41-1514.04, SUBSECTION C, DISQUALIFIES THE TAXPAYER FROM THE
30 CREDIT UNDER THIS SECTION. THE DEPARTMENT OF REVENUE SHALL REQUIRE WRITTEN
31 EVIDENCE OF THE TIMELY REPORT TO THE DEPARTMENT OF COMMERCE.

32 K. FOR THE PURPOSES OF THIS SECTION:

33 1. "ASSIGNED TO RETAIL" MEANS WORKING MORE THAN TWENTY-FIVE PER CENT
34 OF AN EMPLOYEE'S TIME IN ONE OR MORE RETAIL SALES ACTIVITIES.

35 2. "LOCATION" MEANS A SINGLE PARCEL OR CONTIGUOUS PARCELS OF OWNED OR
36 LEASED LAND, THE STRUCTURES AND PERSONAL PROPERTY CONTAINED ON THE LAND OR
37 ANY PART OF THE STRUCTURES OCCUPIED BY A TAXPAYER.

38 3. "RETAIL SALES" MEANS THE SALE OF TANGIBLE PERSONAL PROPERTY TO AN
39 ULTIMATE CONSUMER.

40 4. "RETAIL SALES ACTIVITIES" MEANS ALL ACTIVITIES PERSONS OPERATING A
41 RETAIL BUSINESS NORMALLY ENGAGE IN, INCLUDING TAKING ORDERS, FILLING ORDERS,
42 BILLING ORDERS, RECEIVING AND PROCESSING PAYMENT AND SHIPPING, STOCKING AND
43 DELIVERING TANGIBLE PERSONAL PROPERTY TO THE ULTIMATE CONSUMER, EXCEPT DROP
44 SHIPMENTS BY A COMPANY ACTING ON BEHALF OF AN UNRELATED COMPANY THAT HAS MADE
45 A SALE TO A FINAL CONSUMER.

1 Sec. 13. Section 43-1079, Arizona Revised Statutes, is amended to
2 read:

3 43-1079. Credit for increased employment in military reuse
4 zones: definition

5 A. A credit is allowed against the taxes imposed by this title for net
6 increases in employment by the taxpayer of full-time employees working in a
7 military reuse zone, established under title 41, chapter 10, article 3, and
8 who are primarily engaged in providing aviation or aerospace services or in
9 manufacturing, assembling or fabricating aviation or aerospace products. The
10 amount of the credit is a dollar amount allowed for each new employee,
11 determined as follows:

12 1. With respect to each employee other than a dislocated military base
13 employee:

14 1st year of employment	\$ 500
15 2nd year of employment	\$1,000
16 3rd year of employment	\$1,500
17 4th year of employment	\$2,000
18 5th year of employment	\$2,500

19 2. With respect to each dislocated military base employee:

20 1st year of employment	\$1,000
21 2nd year of employment	\$1,500
22 3rd year of employment	\$2,000
23 4th year of employment	\$2,500
24 5th year of employment	\$3,000

25 B. If the allowable tax credit exceeds the taxes otherwise due under
26 this title on the claimant's income, or if there are no taxes due under this
27 title, the amount of the claim not used to offset the taxes under this title
28 may be carried forward as a credit against subsequent years' income tax
29 liability for the period, not to exceed five taxable years, if the business
30 remains in the military reuse zone.

31 C. The net increase in the number of employees for purposes of this
32 section shall be determined by comparing the taxpayer's average employment in
33 the military reuse zone during the taxable year with the taxpayer's previous
34 year's fourth quarter employment in the zone, based on the taxpayer's report
35 to the department of economic security for unemployment insurance purposes
36 but considering only employment in the zone.

37 D. Co-owners of a business, including partners in a partnership and
38 shareholders of an S corporation, as defined in section 1361 of the internal
39 revenue code, may each claim only the pro rata share of the credit allowed
40 under this section based on the ownership interest. The total of the credits
41 allowed all such owners may not exceed the amount that would have been
42 allowed for a sole owner of the business.

43 E. A credit is not allowed under this section with respect to an
44 employee whose place of employment is relocated by the taxpayer from a
45 location in this state to the military reuse zone, unless the employee is

engaged in aviation or aerospace services or in manufacturing, assembling or fabricating aviation or aerospace products and the taxpayer maintains at least the same number of employees in this state but outside the zone.

F. A taxpayer who claims a credit under section 43-1074, 43-1074.03 or 43-1077 may not claim a credit under this section with respect to the same ~~employees~~ EMPLOYMENT POSITION.

G. For the purposes of this section, "dislocated military base employee" means a civilian who previously had permanent full-time civilian employment on the military facility as of the date the closure of the facility was finally determined under federal law, as certified by the department of commerce.

Sec. 14. Section 43-1080, Arizona Revised Statutes, is amended to read:

43-1080. Credit for construction costs of qualified environmental technology facility

A. A credit is allowed against the taxes imposed by this title for expenses incurred in constructing a qualified environmental technology manufacturing, producing or processing facility as described in section 41-1514.02 OR 41-1525.02. The amount of the credit is equal to ten per cent of the amount spent during the taxable year to construct the facility, including land acquisition, improvements, building improvements, machinery and equipment, but not exceeding seventy-five per cent of the tax liability under this title for the taxable year determined without applying the credit.

B. Amounts qualifying for the credit under this section must be includible in the taxpayer's adjusted basis for the facility. The adjusted basis of any asset with respect to which the taxpayer has claimed a credit shall be reduced by the amount of credit claimed with respect to that asset. This credit does not affect the deductibility for depreciation or amortization of the remaining adjusted basis of the asset.

C. A taxpayer may claim a credit under this section with respect to new ~~qualifying~~ construction QUALIFYING UNDER:

1. SECTION 41-1514.02 within ten years after the start of the facility's initial construction, but a credit is not allowed under this section for any amount spent more than ten years after the start of the facility's initial construction.

2. SECTION 41-1525.02 BEGUN DURING THE EXISTENCE OF THE ENTERPRISE ZONE AND WITHIN TEN YEARS AFTER THE START OF THE FACILITY'S INITIAL CONSTRUCTION, BUT A CREDIT IS NOT ALLOWED UNDER THIS SECTION FOR ANY AMOUNT SPENT MORE THAN TEN YEARS AFTER THE START OF THE FACILITY'S INITIAL CONSTRUCTION.

D. A taxpayer qualifies for the credit under this section if the taxpayer owns the facility or leases the facility or any component of the facility for a term of five or more years.

E. If the allowable tax credit exceeds seventy-five per cent of the taxes otherwise due under this title on the claimant's income, or if there

1 are no taxes due under this title, the amount of the claim not used to offset
2 taxes under this title may be carried forward for not more than fifteen
3 taxable years as a credit against subsequent years' income tax liability.
4 THE CARRYFORWARD APPLIES WITH RESPECT TO A FACILITY LOCATED IN AN ENTERPRISE
5 ZONE REGARDLESS OF ANY TERMINATION OF THE ENTERPRISE ZONE DURING THE
6 CARRYFORWARD PERIOD.

7 F. Co-owners of a business, including partners in a partnership and
8 shareholders of an S corporation, as defined in section 1361 of the internal
9 revenue code, may each claim only the pro rata share of the credit allowed
10 under this section based on the ownership interest. The total of the credits
11 allowed all such owners may not exceed the amount that would have been
12 allowed for a sole owner of the business.

13 G. If either of the following circumstances occurs with respect to a
14 qualified environmental technology manufacturing, producing or processing
15 facility, the tax imposed by this title for the taxable year in which the
16 circumstance occurs shall be increased by the full amount of all credits
17 previously allowed under this section with respect to that facility:

18 1. The taxpayer abandons construction before the facility is placed in
19 service.

20 2. Before the facility is placed in service, the taxpayer changes
21 plans in such a manner as to no longer qualify as an environmental technology
22 manufacturing, producing or processing facility under section 41-1514.02 OR
23 41-1525.02.

24 H. If, within five years after being placed in service, an operating
25 environmental technology manufacturing, producing or processing facility with
26 respect to which a credit has been allowed under this section ceases for any
27 reason to operate as an environmental technology manufacturing, producing or
28 processing facility as described in section 41-1514.02 OR 41-1525.02, the tax
29 imposed by this title for the taxable year shall be increased by an amount
30 determined by multiplying the full amount of all credits previously allowed
31 under this section with respect to that facility by a percentage determined
32 as follows:

33 1. If the facility was placed in service less than one year before
34 ceasing to operate as an environmental technology manufacturing, producing or
35 processing facility, one hundred per cent.

36 2. If the facility was placed in service at least one year but not
37 more than two years before ceasing to operate as an environmental technology
38 manufacturing, producing or processing facility, eighty per cent.

39 3. If the facility was placed in service at least two years but less
40 than three years before ceasing to operate as an environmental technology
41 manufacturing, producing or processing facility, sixty per cent.

42 4. If the facility was placed in service at least three years but less
43 than four years before ceasing to operate as an environmental technology
44 manufacturing, producing or processing facility, forty per cent.

1 5. If the facility was placed in service at least four years but less
2 than five years before ceasing to operate as an environmental technology
3 manufacturing, producing or processing facility, twenty per cent.

4 I. The department by rule shall prescribe record keeping requirements
5 for taxpayers who claim a credit under this section.

6 Sec. 15. Section 43-1161, Arizona Revised Statutes, is amended to
7 read:

8 43-1161. Credit for increased employment in enterprise zones;
9 definitions

10 A. A credit is allowed against the taxes imposed by this title for net
11 increases in qualified employment positions of residents of this state by a
12 business located in an enterprise zone established under title 41, chapter
13 10, article 2, except employment positions at a zone location where more than
14 ten per cent of the business conducted at the location consists of retail
15 sales of tangible personal property, measured by either the number of
16 employees assigned to retail sales or the square footage of the facility used
17 for retail sales activities at the location in the zone. Retail sales and
18 retail sales activities do not include:

19 1. Food and beverage for consumption on the premises solely by
20 employees and occasional guests of employees at the location.

21 2. Promotional products not available for sale and displaying the
22 company logo or trademark.

23 3. Products sold to company employees.

24 B. Subject to subsection E of this section, the amount of the credit
25 is equal to:

26 1. One-fourth of the taxable wages paid to an employee in a qualified
27 employment position, not to exceed five hundred dollars, in the first year or
28 partial year of employment.

29 2. One-third of the taxable wages paid to an employee in a qualified
30 employment position, not to exceed one thousand dollars per qualified
31 employment position, in the second year of continuous employment.

32 3. One-half of the taxable wages paid to an employee in a qualified
33 employment position, not to exceed one thousand five hundred dollars per
34 qualified employment position, in the third year of continuous employment.

35 C. To qualify for a credit under this section:

36 1. All of the employees with respect to whom a credit is claimed must
37 reside in this state.

38 2. Thirty-five per cent of the employees with respect to whom a credit
39 is claimed for the first year of employment must reside on the date of hire
40 in an enterprise zone that is located in the same county in which the
41 business is located. If an employee for whom a credit was allowed in the
42 first year of employment leaves employment during the second or third year,
43 the taxpayer may substitute another employee who meets the requirements of
44 paragraph 3 of this subsection and who was hired during the same year as the
45 original employee. If the original employee was counted toward the residency

1 requirement under this paragraph, the substitute employee must also have
2 resided in a zone at the time the substitute was hired.

3 3. A qualified employment position must meet all of the following
4 requirements:

5 (a) The position must be a minimum of one thousand seven hundred fifty
6 hours per year of full-time and permanent employment.

7 (b) The job duties must be performed primarily at the zone locations
8 of the business. If an eligible employee in a qualified employment position
9 is transferred or assigned to work in the taxpayer's workplace at a different
10 location that is also located in an enterprise zone and qualifies as a zone
11 location, it may be considered to be continuous employment if it continues to
12 meet all qualified employment position requirements.

13 (c) The employment must include health insurance coverage for the
14 employee for which the employer pays at least fifty per cent of the premium
15 or membership cost. If the taxpayer is self-insured, the taxpayer must pay
16 at least fifty per cent of a predetermined fixed cost per employee for an
17 insurance program that is payable whether or not the employee has filed
18 claims.

19 (d) The employer must pay compensation at least equal to the wage
20 offer by county as computed annually by the department of economic security
21 research administration division.

22 (e) The employee must have been employed for at least ninety days
23 during the first taxable year. An employee who is hired during the last
24 ninety days of the taxable year shall be considered a new employee during the
25 next taxable year. A qualified employment position that is filled during the
26 last ninety days of the taxable year is considered to be a new qualified
27 employment position for the next taxable year.

28 (f) The employee must not have been previously employed by the
29 taxpayer within twelve months before the current date of hire.

30 D. A credit is allowed for employment in the second and third year
31 only for qualified employment positions for which a credit was allowed and
32 claimed by the taxpayer on the original first and second year tax returns.
33 For the purposes of this subsection, the requirement to claim the credit on
34 the original tax return does not apply to qualified employment positions
35 created before January 1, 2002 and ~~were~~ certified to the department of
36 commerce.

37 E. The net increase in the number of qualified employment positions is
38 the lesser of the total number of filled qualified employment positions
39 created in the zone during the tax year or the difference between the average
40 number of full-time employees in the zone in the current tax year and the
41 average number of full-time employees during the immediately preceding
42 taxable year. The net increase in the number of qualified employment
43 positions computed under this subsection may not exceed two hundred qualified
44 employment positions per taxpayer each year.

1 F. A taxpayer who claims a credit under section 43-1161.01, 43-1165 or
2 43-1167 may not claim a credit under this section with respect to the same
3 ~~employees~~ EMPLOYMENT POSITION.

4 G. If the allowable tax credit exceeds the income taxes otherwise due
5 on the claimant's income, or if there are no state income taxes due on the
6 claimant's income, the amount of the claim not used as an offset against
7 income taxes may be carried forward as a tax credit against subsequent years'
8 income tax liability for the period, not to exceed five taxable years,
9 provided the business remains in an enterprise zone.

10 H. Co-owners of a business, including partners in a partnership, may
11 each claim only the pro rata share of the credit allowed under this section
12 based on the ownership interest. The total of the credits allowed all such
13 owners of the business may not exceed the amount that would have been allowed
14 for a sole owner of the business.

15 I. If a person purchases a business in a zone or changes ownership
16 through reorganization, stock purchase or merger, the new taxpayer may claim
17 first year credits only for one or more qualified employment positions that
18 it created and filled with an eligible employee after the purchase or
19 reorganization was complete. If a person purchases a taxpayer that had
20 qualified for first or second year credits or changes ownership through
21 reorganization, stock purchase or merger, the new taxpayer may claim the
22 second or third year credits if it meets other eligibility requirements of
23 this section. Credits for which a taxpayer qualified before the changes
24 described in this subsection are terminated and lost at the time the changes
25 are implemented.

26 J. A failure to timely report and certify to the department of
27 commerce and the department of revenue the information prescribed by section
28 41-1525, subsection B, paragraphs 1, 2 and 3 and in the manner prescribed by
29 section 41-1525, subsection C, disqualifies the taxpayer from the credit
30 under this section. The department of revenue shall require written evidence
31 of the timely report to the department of commerce.

32 K. The termination of an enterprise zone does not affect the credit
33 under this section with respect to:

34 1. Taxpayers that have employees in the second and third years of
35 employment in qualified employment positions under subsections A, B and C of
36 this section if the business remains in the location that was in the
37 enterprise zone.

38 2. Amounts carried forward into subsequent taxable years under
39 subsection G of this section.

40 L. The department may adopt rules necessary for the administration of
41 this section.

42 M. For the purposes of this section:

43 1. "Assigned to retail" means working more than twenty-five per cent
44 of an employee's time in one or more retail sales activities.

2. "Retail sales" means the sale of tangible personal property to an ultimate consumer.

3. "Retail sales activities" means all activities persons operating a retail business normally engage in, including taking orders, filling orders, billing orders, receiving and processing payment and shipping, stocking and delivering tangible personal property to the ultimate consumer, except drop shipments by a company acting on behalf of an unrelated company that has made a sale to a final consumer.

4. "Zone location" means a single parcel or contiguous parcels of owned or leased land, the structures and personal property contained on the land or any part of the structures occupied by a taxpayer.

Sec. 16. Title 43, chapter 11, article 6, Arizona Revised Statutes, is amended by adding section 43-1161.01, to read:

43-1161.01. Credit for increased employment by green manufacturing businesses; definitions

A. A CREDIT IS ALLOWED AGAINST THE TAXES IMPOSED BY THIS TITLE FOR NET INCREASES IN QUALIFIED EMPLOYMENT POSITIONS OF RESIDENTS OF THIS STATE BY A GREEN MANUFACTURING BUSINESS QUALIFIED PURSUANT TO SECTION 41-1514.04, EXCEPT EMPLOYMENT POSITIONS AT A LOCATION WHERE MORE THAN TEN PER CENT OF THE BUSINESS CONSISTS OF RETAIL SALES OF TANGIBLE PERSONAL PROPERTY, MEASURED BY EITHER THE NUMBER OF EMPLOYEES ASSIGNED TO RETAIL SALES OR THE SQUARE FOOTAGE OF THE FACILITY USED FOR RETAIL SALES ACTIVITIES AT THE LOCATION. RETAIL SALES AND RETAIL SALES ACTIVITIES DO NOT INCLUDE:

1. FOOD AND BEVERAGE FOR CONSUMPTION ON THE PREMISES SOLELY BY EMPLOYEES AND OCCASIONAL GUESTS OF EMPLOYEES AT THE LOCATION.

2. PROMOTIONAL PRODUCTS NOT AVAILABLE FOR SALE AND DISPLAYING THE COMPANY LOGO OR TRADEMARK.

3. PRODUCTS SOLD TO COMPANY EMPLOYEES.

B. SUBJECT TO SUBSECTION E OF THIS SECTION, THE AMOUNT OF THE CREDIT IS EQUAL TO:

1. ONE-FOURTH OF THE TAXABLE WAGES PAID TO AN EMPLOYEE IN A QUALIFIED EMPLOYMENT POSITION, NOT TO EXCEED FIVE HUNDRED DOLLARS, IN THE FIRST YEAR OR PARTIAL YEAR OF EMPLOYMENT.

2. ONE-THIRD OF THE TAXABLE WAGES PAID TO AN EMPLOYEE IN A QUALIFIED EMPLOYMENT POSITION, NOT TO EXCEED ONE THOUSAND DOLLARS PER QUALIFIED EMPLOYMENT POSITION, IN THE SECOND YEAR OF CONTINUOUS EMPLOYMENT.

3. ONE-HALF OF THE TAXABLE WAGES PAID TO AN EMPLOYEE IN A QUALIFIED EMPLOYMENT POSITION, NOT TO EXCEED ONE THOUSAND FIVE HUNDRED DOLLARS PER QUALIFIED EMPLOYMENT POSITION, IN THE THIRD YEAR OF CONTINUOUS EMPLOYMENT.

C. TO QUALIFY FOR A CREDIT UNDER THIS SECTION:

1. ALL OF THE EMPLOYEES WITH RESPECT TO WHOM A CREDIT IS CLAIMED MUST RESIDE IN THIS STATE.

2. A QUALIFIED EMPLOYMENT POSITION MUST MEET ALL OF THE FOLLOWING REQUIREMENTS:

1 (a) THE POSITION MUST BE A MINIMUM OF ONE THOUSAND SEVEN HUNDRED FIFTY
2 HOURS PER YEAR OF FULL-TIME AND PERMANENT EMPLOYMENT.

3 (b) THE JOB DUTIES MUST BE PERFORMED PRIMARILY AT THE LOCATION OF THE
4 BUSINESS. IF AN ELIGIBLE EMPLOYEE IN A QUALIFIED EMPLOYMENT POSITION IS
5 TRANSFERRED OR ASSIGNED TO WORK IN THE TAXPAYER'S WORKPLACE AT A DIFFERENT
6 LOCATION, IT MAY BE CONSIDERED TO BE CONTINUOUS EMPLOYMENT IF IT CONTINUES TO
7 MEET ALL QUALIFIED EMPLOYMENT POSITION REQUIREMENTS.

8 (c) THE EMPLOYMENT MUST INCLUDE HEALTH INSURANCE COVERAGE FOR THE
9 EMPLOYEE FOR WHICH THE EMPLOYER PAYS AT LEAST FIFTY PER CENT OF THE PREMIUM
10 OR MEMBERSHIP COST. IF THE TAXPAYER IS SELF-INSURED, THE TAXPAYER MUST PAY
11 AT LEAST FIFTY PER CENT OF A PREDETERMINED FIXED COST PER EMPLOYEE FOR AN
12 INSURANCE PROGRAM THAT IS PAYABLE WHETHER OR NOT THE EMPLOYEE HAS FILED
13 CLAIMS.

14 (d) THE EMPLOYER MUST PAY COMPENSATION AT LEAST EQUAL TO THE WAGE
15 OFFER BY COUNTY AS COMPUTED ANNUALLY BY THE DEPARTMENT OF ECONOMIC SECURITY
16 RESEARCH ADMINISTRATION DIVISION.

17 (e) THE EMPLOYEE MUST HAVE BEEN EMPLOYED FOR AT LEAST NINETY DAYS
18 DURING THE FIRST TAXABLE YEAR. AN EMPLOYEE WHO IS HIRED DURING THE LAST
19 NINETY DAYS OF THE TAXABLE YEAR SHALL BE CONSIDERED A NEW EMPLOYEE DURING THE
20 NEXT TAXABLE YEAR. A QUALIFIED EMPLOYMENT POSITION THAT IS FILLED DURING THE
21 LAST NINETY DAYS OF THE TAXABLE YEAR IS CONSIDERED TO BE A NEW QUALIFIED
22 EMPLOYMENT POSITION FOR THE NEXT TAXABLE YEAR.

23 (f) THE EMPLOYEE MUST NOT HAVE BEEN PREVIOUSLY EMPLOYED BY THE
24 TAXPAYER WITHIN TWELVE MONTHS BEFORE THE CURRENT DATE OF HIRE.

25 D. A CREDIT IS ALLOWED FOR EMPLOYMENT IN THE SECOND AND THIRD YEAR
26 ONLY FOR QUALIFIED EMPLOYMENT POSITIONS FOR WHICH A CREDIT WAS ALLOWED AND
27 CLAIMED BY THE TAXPAYER ON THE ORIGINAL FIRST AND SECOND YEAR TAX RETURNS.

28 E. THE NET INCREASE IN THE NUMBER OF QUALIFIED EMPLOYMENT POSITIONS IS
29 THE LESSER OF THE TOTAL NUMBER OF FILLED QUALIFIED EMPLOYMENT POSITIONS
30 CREATED DURING THE TAX YEAR OR THE DIFFERENCE BETWEEN THE AVERAGE NUMBER OF
31 FULL-TIME EMPLOYEES IN THE CURRENT TAX YEAR AND THE AVERAGE NUMBER OF
32 FULL-TIME EMPLOYEES DURING THE IMMEDIATELY PRECEDING TAXABLE YEAR. THE NET
33 INCREASE IN THE NUMBER OF QUALIFIED EMPLOYMENT POSITIONS COMPUTED UNDER THIS
34 SUBSECTION SHALL NOT EXCEED TWO HUNDRED QUALIFIED EMPLOYMENT POSITIONS PER
35 TAXPAYER EACH YEAR.

36 F. A TAXPAYER WHO CLAIMS A CREDIT UNDER SECTION 43-1161 OR 43-1167
37 SHALL NOT CLAIM A CREDIT UNDER THIS SECTION WITH RESPECT TO THE SAME
38 EMPLOYMENT POSITION.

39 G. IF THE ALLOWABLE TAX CREDIT EXCEEDS THE INCOME TAXES OTHERWISE DUE
40 ON THE CLAIMANT'S INCOME, OR IF THERE ARE NO STATE INCOME TAXES DUE ON THE
41 CLAIMANT'S INCOME, THE AMOUNT OF THE CLAIM NOT USED AS AN OFFSET AGAINST
42 INCOME TAXES MAY BE CARRIED FORWARD AS A TAX CREDIT AGAINST SUBSEQUENT
43 TAXABLE YEARS' INCOME TAX LIABILITY, NOT TO EXCEED FIVE TAXABLE YEARS.

44 H. CO-OWNERS OF A BUSINESS, INCLUDING PARTNERS IN A PARTNERSHIP, MAY
45 EACH CLAIM ONLY THE PRO RATA SHARE OF THE CREDIT ALLOWED UNDER THIS SECTION

1 BASED ON THE OWNERSHIP INTEREST. THE TOTAL OF THE CREDITS ALLOWED ALL SUCH
 2 OWNERS OF THE BUSINESS MAY NOT EXCEED THE AMOUNT THAT WOULD HAVE BEEN ALLOWED
 3 FOR A SOLE OWNER OF THE BUSINESS.

4 I. IF A PERSON PURCHASES A BUSINESS OR CHANGES OWNERSHIP THROUGH
 5 REORGANIZATION, STOCK PURCHASE OR MERGER, THE NEW TAXPAYER MAY CLAIM FIRST
 6 YEAR CREDITS ONLY FOR ONE OR MORE QUALIFIED EMPLOYMENT POSITIONS THAT IT
 7 CREATED AND FILLED WITH AN ELIGIBLE EMPLOYEE AFTER THE PURCHASE OR
 8 REORGANIZATION WAS COMPLETE. IF A PERSON PURCHASES A TAXPAYER THAT HAD
 9 QUALIFIED FOR FIRST OR SECOND YEAR CREDITS OR CHANGES OWNERSHIP THROUGH
 10 REORGANIZATION, STOCK PURCHASE OR MERGER, THE NEW TAXPAYER MAY CLAIM THE
 11 SECOND OR THIRD YEAR CREDITS IF IT MEETS OTHER ELIGIBILITY REQUIREMENTS OF
 12 THIS SECTION. CREDITS FOR WHICH A TAXPAYER QUALIFIED BEFORE THE CHANGES
 13 DESCRIBED IN THIS SUBSECTION ARE TERMINATED AND LOST AT THE TIME THE CHANGES
 14 ARE IMPLEMENTED.

15 J. A FAILURE TO TIMELY REPORT AND CERTIFY TO THE DEPARTMENT OF
 16 COMMERCE AND THE DEPARTMENT OF REVENUE THE INFORMATION PRESCRIBED BY SECTION
 17 41-1514.04, SUBSECTION B, PARAGRAPHS 1, 2 AND 3, AND IN THE MANNER PRESCRIBED
 18 BY SECTION 41-1514.04, SUBSECTION C, DISQUALIFIES THE TAXPAYER FROM THE
 19 CREDIT UNDER THIS SECTION. THE DEPARTMENT OF REVENUE SHALL REQUIRE WRITTEN
 20 EVIDENCE OF THE TIMELY REPORT TO THE DEPARTMENT OF COMMERCE.

21 K. FOR THE PURPOSES OF THIS SECTION:

22 1. "ASSIGNED TO RETAIL" MEANS WORKING MORE THAN TWENTY-FIVE PER CENT
 23 OF AN EMPLOYEE'S TIME IN ONE OR MORE RETAIL SALES ACTIVITIES.

24 2. "LOCATION" MEANS A SINGLE PARCEL OR CONTIGUOUS PARCELS OF OWNED OR
 25 LEASED LAND, THE STRUCTURES AND PERSONAL PROPERTY CONTAINED ON THE LAND OR
 26 ANY PART OF THE STRUCTURES OCCUPIED BY A TAXPAYER.

27 3. "RETAIL SALES" MEANS THE SALE OF TANGIBLE PERSONAL PROPERTY TO AN
 28 ULTIMATE CONSUMER.

29 4. "RETAIL SALES ACTIVITIES" MEANS ALL ACTIVITIES PERSONS OPERATING A
 30 RETAIL BUSINESS NORMALLY ENGAGE IN, INCLUDING TAKING ORDERS, FILLING ORDERS,
 31 BILLING ORDERS, RECEIVING AND PROCESSING PAYMENT AND SHIPPING, STOCKING AND
 32 DELIVERING TANGIBLE PERSONAL PROPERTY TO THE ULTIMATE CONSUMER, EXCEPT DROP
 33 SHIPMENTS BY A COMPANY ACTING ON BEHALF OF AN UNRELATED COMPANY THAT HAS MADE
 34 A SALE TO A FINAL CONSUMER.

35 Sec. 17. Section 43-1167, Arizona Revised Statutes, is amended to
 36 read:

37 43-1167. Credit for increased employment in military reuse
 38 zones; definition

39 A. A credit is allowed against the taxes imposed by this title for net
 40 increases in employment by the taxpayer of full-time employees working in a
 41 military reuse zone, established under title 41, chapter 10, article 3, and
 42 who are primarily engaged in providing aviation or aerospace services or in
 43 manufacturing, assembling or fabricating aviation or aerospace products. The
 44 amount of the credit is a dollar amount allowed for each new employee,
 45 determined as follows:

1 1. With respect to each employee other than a dislocated military base
2 employee:

3 1st year of employment	\$ 500
4 2nd year of employment	\$1,000
5 3rd year of employment	\$1,500
6 4th year of employment	\$2,000
7 5th year of employment	\$2,500

8 2. With respect to each dislocated military base employee:

9 1st year of employment	\$1,000
10 2nd year of employment	\$1,500
11 3rd year of employment	\$2,000
12 4th year of employment	\$2,500
13 5th year of employment	\$3,000

14 B. If the allowable tax credit exceeds the taxes otherwise due under
15 this title on the claimant's income, or if there are no taxes due under this
16 title, the amount of the claim not used to offset the taxes under this title
17 may be carried forward as a credit against subsequent years' income tax
18 liability for the period, not to exceed five taxable years, if the business
19 remains in the military reuse zone.

20 C. The net increase in the number of employees for purposes of this
21 section shall be determined by comparing the taxpayer's average employment in
22 the military reuse zone during the taxable year with the taxpayer's previous
23 year's fourth quarter employment in the zone, based on the taxpayer's report
24 to the department of economic security for unemployment insurance purposes
25 but considering only employment in the zone.

26 D. Co-owners of a business, including corporate partners in a
27 partnership, may each claim only the pro rata share of the credit allowed
28 under this section based on the ownership interest. The total of the credits
29 allowed all such owners may not exceed the amount that would have been
30 allowed for a sole owner of the business.

31 E. A credit is not allowed under this section with respect to an
32 employee whose place of employment is relocated by the taxpayer from a
33 location in this state to the military reuse zone unless the employee is
34 engaged in aviation or aerospace services or in manufacturing, assembling or
35 fabricating aviation or aerospace products and the taxpayer maintains at
36 least the same number of employees in this state but outside the zone.

37 F. A taxpayer who claims a credit under section 43-1161, 43-1161.01 or
38 43-1165 may not claim a credit under this section with respect to the same
39 ~~employees~~ EMPLOYMENT POSITION.

40 G. For the purposes of this section, "dislocated military base
41 employee" means a civilian who previously had permanent full-time civilian
42 employment on the military facility as of the date the closure of the
43 facility was finally determined under federal law, as certified by the
44 department of commerce.

1 Sec. 18. Section 43-1169, Arizona Revised Statutes, is amended to
2 read:

3 43-1169. Credit for construction costs of qualified
4 environmental technology facility

5 A. A credit is allowed against the taxes imposed by this title for
6 expenses incurred in constructing a qualified environmental technology
7 manufacturing, producing or processing facility as described in section
8 41-1514.02 OR 41-1525.02. The amount of the credit is equal to ten per cent
9 of the amount spent during the taxable year to construct the facility,
10 including land acquisition, improvements, building improvements, machinery
11 and equipment, but not exceeding seventy-five per cent of the tax liability
12 under this title for the taxable year determined without applying the credit.

13 B. Amounts qualifying for the credit under this section must be
14 includible in the taxpayer's adjusted basis for the facility. The adjusted
15 basis of any asset with respect to which the taxpayer has claimed a credit
16 shall be reduced by the amount of credit claimed with respect to that asset.
17 This credit does not affect the deductibility for depreciation or
18 amortization of the remaining adjusted basis of the asset.

19 C. A taxpayer may claim a credit under this section with respect to
20 new ~~qualifying~~ construction QUALIFYING UNDER:

21 1. SECTION 41-1514.02 within ten years after the start of the
22 facility's initial construction, but a credit is not allowed under this
23 section for any amount spent more than ten years after the start of the
24 facility's initial construction.

25 2. SECTION 41-1525.02 BEGUN DURING THE EXISTENCE OF THE ENTERPRISE
26 ZONE AND WITHIN TEN YEARS AFTER THE START OF THE FACILITY'S INITIAL
27 CONSTRUCTION, BUT A CREDIT IS NOT ALLOWED UNDER THIS SECTION FOR ANY AMOUNT
28 SPENT MORE THAN TEN YEARS AFTER THE START OF THE FACILITY'S INITIAL
29 CONSTRUCTION.

30 D. A taxpayer qualifies for the credit under this section if the
31 taxpayer owns the facility or leases the facility or any component of the
32 facility for a term of five or more years.

33 E. If the allowable tax credit exceeds seventy-five per cent of the
34 taxes otherwise due under this title on the claimant's income, or if there
35 are no taxes due under this title, the amount of the claim not used to offset
36 taxes under this title may be carried forward for not more than fifteen
37 taxable years as a credit against subsequent years' income tax liability.
38 THE CARRYFORWARD APPLIES WITH RESPECT TO A FACILITY LOCATED IN AN ENTERPRISE
39 ZONE REGARDLESS OF ANY TERMINATION OF THE ENTERPRISE ZONE DURING THE
40 CARRYFORWARD PERIOD.

41 F. Co-owners of a business, including partners in a partnership, may
42 each claim only the pro rata share of the credit allowed under this section
43 based on the ownership interest. The total of the credits allowed all such
44 owners may not exceed the amount that would have been allowed for a sole
45 owner of the business.

G. If either of the following circumstances occurs with respect to a qualified environmental technology manufacturing, producing or processing facility, the tax imposed by this title for the taxable year in which the circumstance occurs shall be increased by the full amount of all credits previously allowed under this section with respect to that facility:

1. The taxpayer abandons construction before the facility is placed in service.

2. Before the facility is placed in service, the taxpayer changes plans in such a manner as to no longer qualify as an environmental technology manufacturing, producing or processing facility under section 41-1514.02 OR 41-1525.02.

H. If, within five years after being placed in service, an operating environmental technology manufacturing, producing or processing facility with respect to which a credit has been allowed under this section ceases for any reason to operate as an environmental technology manufacturing, producing or processing facility as described in section 41-1514.02 OR 41-1525.02, the tax imposed by this title for the taxable year shall be increased by an amount determined by multiplying the full amount of all credits previously allowed under this section with respect to that facility by a percentage determined as follows:

1. If the facility was placed in service less than one year before ceasing to operate as an environmental technology manufacturing, producing or processing facility, one hundred per cent.

2. If the facility was placed in service at least one year but not more than two years before ceasing to operate as an environmental technology manufacturing, producing or processing facility, eighty per cent.

3. If the facility was placed in service at least two years but less than three years before ceasing to operate as an environmental technology manufacturing, producing or processing facility, sixty per cent.

4. If the facility was placed in service at least three years but less than four years before ceasing to operate as an environmental technology manufacturing, producing or processing facility, forty per cent.

5. If the facility was placed in service at least four years but less than five years before ceasing to operate as an environmental technology manufacturing, producing or processing facility, twenty per cent.

I. The department by rule shall prescribe record keeping requirements for taxpayers who claim a credit under this section.

Sec. 19. Purpose

Pursuant to section 43-223, Arizona Revised Statutes, the income tax credits enacted in sections 43-1074.03 and 43-1161.01, Arizona Revised Statutes, as added by this act, are intended to encourage investment and development of environmentally friendly businesses that will produce high quality employment opportunities for citizens of this state.

Sec. 20. Effective date

This act is effective from and after December 31, 2009.